

Congress of the United States

Washington, DC 20515

AL-10-001-2843

July 29, 2010

The Honorable Lisa P. Jackson
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Administrator Jackson:

We write to renew our request for information on the EPA Region VI administrator's action with respect to air quality in Texas. On June 17, 2010, House and Senate Texas Republicans sent you a letter in support of the Texas Commission on Environmental Quality's (TCEQ) air permitting program. In that letter, we explained that the Texas flexible permitting program is consistent with the provisions of the Clean Air Act and recommended that the EPA not supersede a successful state program that has reduced emissions and improved air quality. We urged the EPA to reconsider the permitting action taken on May 25, 2010, and to refrain from any further actions taking over operating permits in Texas. We requested a prompt response to our inquiries.

We were therefore surprised to learn that Region VI Administrator Armendariz briefed select Democrat Members of the Texas Delegation yesterday. We assume that this briefing was in response to a June 24, 2010 letter sent to you by Democrat Members of the Texas Delegation on the very same issue addressed in our June 17 letter. The EPA's decision to brief Democrats and not Republicans will not improve dialogue nor will it improve air quality in Texas. Like all Texans, we are extremely concerned that the EPA will impose excessive and unnecessary costs on refiners and other businesses in an arbitrary attempt to supersede TCEQ.

We believe that including Texans of both parties in yesterday's briefing would have been the appropriate response to the June 17 and June 24 letters. We regret that we were not included. As you have still not answered our concerns outlined in our June 17 letter, we again request a briefing on the issues outlined in that letter, attached herewith for your reference.

Sincerely,

Joe Barton

Buzz Sessing TX-32

John Cullman

Louis Hunt

K. H. S. TX-11

Concannon TX-19

John Searles

Amul TX-2

K. F. Barry TX-8

Mac J. H. TX-13

Steve H. TX-24

Sam Johnson TX-3

Rita Olsen TX-22

Frank Carter TX-31

J. H. S. TX-26

L. H. S. TX-12

Ralph M. Hall Jr
Lamar Smith
TX-21

Ron Paul

Michael L

John Cornyn



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS TX 75202-2733

AUG 4 2010

The Honorable Louie Gohmert
House of Representatives
Washington, D.C. 20515

Dear Congressman Gohmert:

Thank you for your letter dated June 17, 2010, to the U.S. Environmental Protection Agency (EPA) Administrator Lisa P. Jackson regarding EPA's efforts to enforce the provisions of the Clean Air Act in Texas. Administrator Jackson forwarded your letter to me for reply because Texas is within the jurisdiction of EPA Region 6.

In your letter, you outlined your concerns about EPA's actions as it works with the Texas Commission on Environmental Quality (TCEQ) to ensure that the Texas air permitting program complies with the Clean Air Act. EPA is responsible for guaranteeing that the people of Texas receive the health protection they deserve – the same level of protection established for all Americans in the Clean Air Act. Unfortunately, several TCEQ air permitting rules and practices have contributed to permits that do not provide this guarantee. Local governments and citizens throughout Texas have publicly decried the implementation of the State's air permitting program and the difficulty of enforcing permits issued under it.

This is not a new or partisan issue. In 2002, EPA began formally identifying concerns to the predecessor of the Texas Commission on Environmental Quality (TCEQ) about whether changes to the air permitting program, including the addition of the flexible permit rules, provided the same level of public health protection that is provided by federal law. EPA and the State continued this dialogue for many years without resolution. In September 2007, EPA sent letters putting companies with flexible permits on notice that we believed their permits did not comply with the federal Clean Air Act (see enclosure). On August 25, 2008, the Business Coalition for Clean Air, the Texas Association of Business, and the Texas Oil and Gas Association filed a complaint in federal court seeking a final resolution to this dialogue. This lawsuit resulted in a settlement requiring EPA to take action on numerous Texas air permitting provisions. One such action was the June 30, 2010, final disapproval of the flexible permit program.

In addition to these program actions, on October 30, 2009, EPA began to issue objections to operating permits for major sources of air pollution. The objections were made to permits that relied on flawed regulations and where permits did not satisfy the minimum operating permit requirements contained in prior TCEQ rules approved by EPA. Under the Clean Air Act a

permitting authority has 90 days from the date of an EPA objection to an operating permit to correct that permit. If the correction is not made within the 90-day window, EPA is required to issue or deny the permit. For approximately eight months, TCEQ did not respond to EPA objections. In a letter to EPA dated May 24, 2010, TCEQ's Executive Director wrote, "It seems the only way EPA or TCEQ will be able to understand what is expected to alleviate any Title V [operating permit] programmatic objections is for EPA to issue a Title V permit." He continued, "This will also ensure the timely issuance of permits." It was then that EPA made the difficult decision to begin sending federal permit applications where significant deficiencies had not been corrected. To date, EPA has not issued or revoked a single permit in the State of Texas. We have simply asked three companies to submit permit applications addressing noted deficiencies. We will continue to evaluate whether to send additional permit application requests in the near future.

EPA made these difficult decisions against a backdrop of regular meetings with the State, the regulated community, environmental organizations and community members to discuss program deficiencies and possible resolutions. We believe these meetings have allowed an open dialogue with TCEQ, the regulated community, environmental organizations and community members about our program concerns. The Clean Air Act envisions state control of clean air programs, and we welcome the state's leadership on clean air. TCEQ must exercise its authorized authorities within the framework established by Congress. We cannot overlook state permitting programs that are inconsistent with the Clean Air Act.

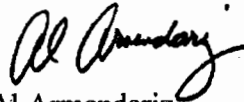
You also wrote that you believe the TCEQ flexible permitting program is consistent with the provisions of the Clear Air Act and has played a critical role in the significant and continuing success of the Texas air quality program. Despite the intended benefits of creating flexibility throughout the air permitting program, several rules have resulted in problems for the public and EPA, including a lack of clarity and practical enforceability of permits. Many of the companies with flexible air permits in Texas also operate in other states. These other states, including ones with heavy industrial activity, have not ignored the minimum protections provided by America's Clean Air Act, and these same companies have continued to operate profitably.

We continue to believe that TCEQ and EPA can work together to find common ground for a permitting program that meets federal requirements, as well as the needs of the public and business community in Texas. We are currently working cooperatively with TCEQ and a number of companies, including oil refiners and petrochemical companies, to begin the process of correcting their permits through submittal of revised permits to the TCEQ. EPA took the initiative to create an open dialogue with industry and will continue to meet with any business seeking to resolve ongoing compliance issues. The result will be state and federally enforceable permits that include clear unit-specific emission limitations, monitoring, recordkeeping and reporting requirements.

Collaboration between TCEQ and EPA has resulted in national environmental successes in the past and we believe it will in the future. We can protect the health of Texans while at the same time promoting economic growth and jobs. Please be assured that we are committed to our continued work with TCEQ, the public and Texas businesses in a spirit of partnership to provide every Texan the health protection they deserve.

In your subsequent letters dated June 29, and 30, 2010, you asked that EPA present a briefing on the issues addressed in this response. We will quickly accommodate this request and schedule a briefing later this month. If you have any further questions please contact me at (214) 665-2100, or your staff may contact Ms. Cynthia Fanning of my staff at (214) 665-2142.

Sincerely yours,



Al Armendariz
Regional Administrator

Enclosure

Identical Letter Sent To:

The Honorable Kay Bailey Hutchison
The Honorable John Cornyn
The Honorable Joe Barton
The Honorable Kevin Brady
The Honorable Michael Burgess, M.D.
The Honorable John Carter
The Honorable Mike Conaway
The Honorable John Culberson
The Honorable Kay Granger
The Honorable Ralph Hall
The Honorable Jeb Hensarling

The Honorable Sam Johnson
The Honorable Kenny Marchant
The Honorable Michael McCaul
The Honorable Randy Neugebauer
The Honorable Pete Olson
The Honorable Ron Paul, M.D.
The Honorable Ted Poe
The Honorable Pete Sessions
The Honorable Lamar Smith
The Honorable Mac Thornberry



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

August 8, 2005

Mr. Russell Kimble
General Law Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

Dear Mr. Kimble:

Thank you for the opportunity to review and comment on the proposed Rule Project No. 2005-024-101-CE concerning 30 TAC General Rule Chapter 101, Sections 101.1, 101.201, 101.211, and 101.221 - 101.223 as adopted by the Texas Commission on Environmental Quality (TCEQ) on June 29, 2005. The proposed revision to these provisions of the State Implementation Plan (SIP) was published in the July 15, 2005, issue of the Texas Register (30 TexReg 4090).

The U.S. Environmental Protection Agency (EPA) supports the State's initiatives to reduce excess emissions which may aggravate air quality and interfere with the goals of attainment or maintenance of the National Ambient Air Quality Standards (NAAQS), and to provide prompt information to the public on excess emissions through the State's online electronic reporting database. We recognize that many of these proposed changes seek to streamline the excess emissions reporting system. However, our initial review of the proposed revision to the SIP has raised the following areas of concerns regarding consistency with the Clean Air Act (the Act) and approvability of the SIP revision:

- A) providing an affirmative defense for certain maintenance and planned activities,
- B) revisions to affirmative defense criteria in existing and new sections of the rule,
- C) clarification on the applicability of affirmative defense provisions to Federally promulgated standards, such as New Source Performance Standards and National Emission Standard for Hazardous Air Pollutants,
- D) technical and economical justifications for increasing the Reportable Quantities (RQ) for certain compounds, and
- E) suggestions to define "startup," "shutdown," and "maintenance" activities in section 101.1 of the rule.

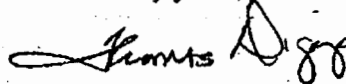
We have no comments on section 101.223 concerning Actions to Reduce Excessive Emissions. Our enclosure to this letter contains more details about our comments.

Our review of the proposed rule as published in the July 15, 2005, issue of the Texas Register (30 TexReg 4090) indicates several areas in which the rule is inconsistent with EPA's interpretation of the Act, our previous rulemakings, guidance and policy. We believe the rule is not fully approvable as now proposed. We look forward to working with TCEQ to recommend changes to the proposed rule, so that we may approve the rule prior to the expiration date of the existing emissions event rule. Our interpretation of the SIP is that the current rule will expire, by its own terms and without further action by EPA, on January 15, 2006; unless the Commission submits a revised version of the rule to us for review and approval before that date, which will extend the expiration date of the current rule will June 30, 2006.

In recognition of the State's transition to a revised rule, section 1 of our May 9, 2005, (70 FR 24348) proposed limited approval of the current rule stated, "The EPA intends to work with the State during its rulemaking on the revised version of the rule to identify any issues that would prevent our approval of the rule." Consequently, we look forward to hearing from you or your staff for a mutually beneficial dialogue and discussion of these comments.

We appreciate the opportunity to comment on these proposed revisions to 30 TAC General Rule Chapter 101. If you have any questions about this letter, please contact me at (214) 665-3102 or Mr. Alan Shar of my staff at (214) 665-6691.

Sincerely yours,



Thomas H. Diggs
Chief
Air Planning Section

Enclosure

ENCLOSURE

Proposed Rule Project No. 2005-024-101-CE

30 TAC General Rule Chapter 101, Sections 101.1, 101.201, 101.211, and 101.221-101.223

1. General comment. EPA's interpretation of the Act provides that all unauthorized emissions in excess of applicable SIP standards are violations of the SIP. EPA cannot approve into the SIP any rule which allows an automatic exemption for periods of excess emissions. The rationale for this position is that SIPs are ambient-based standards intended to protect increments and the NAAQS. Emissions above allowable SIP limits have the potential to interfere with attainment and maintenance of the NAAQS. TCEQ's current SIP and the proposed rules require reporting of unauthorized emissions above a reportable quantity. However, it is important to note that all emissions above limitations in SIP approved permits, rules or orders are violations of the applicable requirement. Emissions from startup, shutdown, maintenance and malfunctions must be considered in determining compliance with those requirements. Assertion of an affirmative defense to an enforcement action does not relieve the source from liability for a violation of the SIP, but instead allows the source to avoid civil penalties when certain criteria are met in a judicial or administrative enforcement action. Please confirm that TCEQ requires all emissions from startup, shutdown, maintenance, and malfunction periods to be included in determining compliance with emission limitations in SIP-approved permits, rules and orders. Please confirm that TCEQ interprets all unauthorized emissions above allowable limitations in permits, rules and orders to be subject to reporting under Section 122.145 (2) (Federal Operating Permit Program, Deviation Reporting) for sources subject to Section 122 requirements.

Section 101.1, Definitions

2. Definition of startup, shutdown, and maintenance In order to determine applicability and ensure enforceability of Chapter 101 requirements, the rule should include definitions for three widely used terminologies: "startup," "shutdown," and "maintenance." Startup, shutdown and maintenance periods should be defined as discrete periods of limited duration and the definition should clearly distinguish between routine startup, shutdown and maintenance related emissions (from normal operation) and non-routine startup, shutdown and maintenance related emissions (from malfunctions or upsets, poor operation or maintenance).

Section 101.1(88) Reportable Quantity (RQ)

3. RQ applicability to individual units rather than the entire source. The proposed revision to the RQ definition in section 101.1(88) makes the RQ reporting requirements applicable to facilities instead of regulated entities. Where more than one unit is involved in an emissions event, this change could, in effect, increase the RQ from the current SIP rule. We request that the State's public record adequately address technical and economical justifications for these potential increases in the

RQs.

4. Lack of data on frequency of non-reportable emission events. By increasing RQ thresholds from the existing SIP rule, TCEQ will receive less information concerning the number of emission events below the RQ at a given facility. EPA is concerned that this change will increase the number of non-reportable emissions events. We suggest that TCEQ establish reporting requirements for non-reportable emission events where the frequency of those emissions events at a given source exceeds a threshold number. Also, please explain how the State will make excessive emissions event determinations required by 101.222(b).

5. Increase in RQ for NOx. Section 101.1(88)(A)(i)(III)(p) of the proposed rule allows increases in the RQ for nitrogen oxide (NO) from 100 pounds in the nonattainment areas to 200 pounds for oxides of nitrogen (NOx). At the same time, the 101.1(88)(A)(i)(III)(p) also increases the nitrogen oxide's RQ from 100 pounds for the rest of the State to 5,000 pounds. Given the recognized significant role of NOx in the regional control strategy (Chapter 117 rules for East and Central Texas) and the ozone nonattainment areas (Chapter 117 rules for Attainment Demonstration), we are concerned that the increase in the RQ could impact related SIP requirements. We request that the State supplement the public record to adequately address technical and economical justifications for these significant increases in the RQs.

6. Increase in RQ for CFCs, HFCs and HCFCs. In section 101.1(88)(A)(i)(III)(q) through (ss), the proposed rule increases the RQ for several of the CFC, HFC, and HCFCs from the default value of 100 pounds to 5,000 pounds. Despite the changes in the RQs, the environment will continue to experience the impact of such releases. We are concerned that the streamlined reporting of excess emissions of these chemicals will increase the number of potential releases of these compounds. We acknowledge TCEQ's statements to the effect that these compounds are not criteria pollutants or do not contribute to ozone nonattainment problem as the rationale for increasing the RQ for these compounds. However, the State's SIP reporting requirements address a wide range of pollutants that affect human health and the environment, not just criteria pollutants. For example, hydrochloric acid is neither a criteria pollutant, nor is known to contribute to the ozone nonattainment problem; however, excess emissions of this compound could potentially have serious health and environmental impacts. We request that the State supplement the public record to adequately address technical and economical justifications for the significant increases of the RQs for these CFC, HFC, and HCFCs compounds.

7. Increase in default RQ for other air contaminants. In 101.1(88)(A)(ii), the proposed rule maintains the default RQ for all other air contaminants when there is not a listed RQ for the nonattainment and the EAC areas at 100 pounds, but such an RQ for all other areas is increased to 5,000 pounds. This proposed change increases certain RQs from those in the currently approved SIP. We request that the State supplement the public record to adequately address technical and economical justifications for significant increases of the RQs for these air contaminants.

8. Reporting requirements for Boilers and combustion turbines. Proposed section 101.1(88)(C) exempts certain boilers and combustion turbines from reporting requirements for all pollutants except unauthorized opacity releases. Please explain the basis for exempting these sources from reporting requirements. Please explain if the proposed rule allows these sources to assert an affirmative defense to emission events for unreported releases.

Section 101.201, Emissions Event Reporting and Recordkeeping Requirements

9. Removal of authorized emission limits from initial reporting requirements. The proposed rule in section 101.201(a)(2)(G) deletes the requirement to report authorized applicable emission limits or opacity limitation in initial excess emission reports. The proposed rule also allows the initial report to substitute for a final report where "the owner or operator does not submit a record." Therefore, the authorized emission limit will not be available for any initial reports and will not be available for some final reports. The current SIP reporting rules require reporting of the authorized emission limitation in initial and final reports. Please provide the State's rationale for this change. Since reporting requirements apply only to unauthorized emissions equal to or in excess of reportable quantities, please explain how TCEQ, EPA, or citizens can effectively evaluate the significance of an emissions event without knowing the authorized emission limitation. Please explain how TCEQ will make determinations required by section 101.222 without determining the quantity of unauthorized emissions. Further, please explain how sources will comply with sections 101.201(a)(2)(H) and 101.201(b)(1)(H) to determine the estimated total quantities for releases which are unauthorized and above an RQ. EPA recommends that the State not adopt this revision to the current SIP.

10. Method of estimating quantities of emissions. EPA agrees with the proposed change in Section 101.201(H) which requires methods of estimates of total quantities of emissions released to be consistent with methods used in the applicable permit, application, rule or order of the Commission in final reports. EPA suggests that this provision be included in the reporting requirements for initial reports, especially considering that initial reports may, in some cases, substitute for final reports.

11. Annual emissions event reporting requirements. EPA supports the State's requirement in section 101.201(h) to require annual reporting of both reportable and non-reportable emission events for certain sources. We believe this information will assist the State in evaluating effective enforcement efforts and will facilitate the State's SIP planning process. Please indicate whether these reports will be available to citizens and EPA on the State's electronic reporting system.

Section 101.221, Operational Requirements

12. Applicability of affirmative defense to violations of NSPS, NESHAP. EPA supports the revision to section 101.221(d) providing that the commission will not exempt sources from compliance with any federal requirements including New Source Performance Standards (NSPS) or

National Emission Standards for Hazardous Air Pollutants (NESHAP). However, this change does not fully address concerns raised in our limited approval of the current version of this rule. See section 5 of our March 30, 2005 (70 FR 16131).

The proposed rule must clarify that the affirmative defense provisions in section 101.222 cannot apply to violations of Federally promulgated standards, such as NSPS or NESHAPs. See *Memorandum from Steven A. Herman and Robert Perciasepe to Regional Administrators, September 1999, State Implementation Plans (SIPs): Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown*, which states "To the extent a state includes NSPS or NESHAPs in its SIP, the standards should not deviate from those that were Federally promulgated. Because EPA set these standards taking into account technological limitations, additional exemptions would be inappropriate." EPA strongly recommends that the State adopt an addition to section 101.222(f), Obligations, that states, in effect, sections 101.222 (b), (c), (d), or (e) do not provide an affirmative defense to violations of Federally promulgated standards. For example, the rule may contain an applicability section which defines standards which may be subject to an affirmative defense, or the rule may state that certain violations are not subject to an affirmative defense:

This rule establishes affirmative defenses for certain emissions in excess of an emission standard or limitation and applies to SIP emission standards or limitations, except for standards or limitations promulgated pursuant to Sections 111 or 112 of the Federal Clean Air Act, such as NSPS or NESHAP.

Section 101.222, Demonstrations

13. Change to affirmative defense criteria for malfunctions. Sections 101.222(b)(3) and (d)(2) revise the existing SIP-approved criteria a source must prove in order to assert an affirmative defense. The proposed rule states the malfunction "could not have been reasonably avoided by technically feasible design, operation, and maintenance practices consistent with good engineering practice." EPA's guidance requires that the malfunction could not have been avoided by better operation and maintenance practices. EPA has narrowly interpreted the criteria established in the *Memorandum from Steven A. Herman and Robert Perciasepe to Regional Administrators, September 1999, State Implementation Plans (SIPs): Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown*. The requirement to prove that the event could not have been avoided is a fundamental principle which EPA considered in drafting the 1999 SSM guidance. The proposed change adds a level of subjectivity that limits EPA, citizens and TCEQ's enforcement authority. The proposed change also decreases the source's responsibility to anticipate and eliminate releases of excess emissions. The change is a weakening of the existing SIP provision. Please provide further information on the State's rationale for this change. Further review is necessary to determine whether this provision is consistent with the Act and therefore approvable. EPA strongly recommends that the State not adopt this proposed change.

14. Applicability of affirmative defense for scheduled startup or shutdown activity

which result from routine or predictable events. EPA's guidance and policy recognize that the affirmative defense should not apply to emissions from normal operations that are routine and predictable. EPA has also stated that an affirmative defense may be asserted for excess emissions activities from startup and shutdown where emissions control systems may not be consistently effective during those periods or for excess emissions which are sudden, unavoidable or caused by circumstances beyond the control of the owner or operator. EPA has determined that it is inappropriate to provide an affirmative defense for excess emissions resulting from scheduled or planned activities. Please provide further information how the State will limit the affirmative defense for scheduled startup or shutdown activity to preclude its application for routine and predictable emission activities. EPA suggests that TCEQ add additional criteria, similar to the approach the State provided in Section 101.222 (h) in order to limit the applicability of the affirmative defense for startup and shutdown activities.

15. Affirmative defense for scheduled startup or shutdown activity. The proposed rule contains criteria in section 101.222(c) which the owner or operator must prove in order to assert an affirmative defense to enforcement actions for unauthorized emissions. Those criteria deviate significantly from EPA guidance. The changes add a level of subjectivity that limits EPA, citizens and TCEQ's enforcement authority. The proposed change also decrease the source's responsibility to anticipate and eliminate releases of excess emissions. Please provide the State's rationale for this change. Further review is necessary to determine whether this provision is consistent with the Act and therefore approvable. EPA strongly recommends that TCEQ revise the criteria to include the underlined terms:

(2) periods of unauthorized emissions from the activity were short and infrequent and could not have been prevented through careful planning and design.

(5) the facility and air pollution control equipment were operated in a manner consistent with good practices for minimizing emissions at all times;

(6) the frequency and duration of operation in a scheduled startup or shutdown mode resulting in authorized emissions were minimized to the maximum extent practicable;

(8) the owner or operator actions during the period of unauthorized emissions from the activity were documented by properly signed contemporaneous operating logs or other relevant evidence;

All possible steps were taken to minimize impact of excess emissions on ambient air quality.

16. Affirmative defense for scheduled maintenance activity. Section 101.222 (h) provides an affirmative defense for all maintenance activities for preconstruction permits issued under Texas Health and Safety Code, § 382.0518 until the effective date of renewal, amendment or issuance associated with the facility, and for all other facilities until two years after the effective date of this provision. EPA strongly recommends that the State establish an alternative approach of enforcement discretion for excess emissions from scheduled maintenance during this transition period.

Region 6 supports TCEQ's practice of requiring pre-reporting of scheduled maintenance events. We understand that the State reviews these reports prior to the maintenance event and compares the final report to ensure the quantities of pollutants actually released are consistent with those projected in the pre-report. We agree with the State that pre-reporting of excess emissions from scheduled maintenance has the potential to minimize these emissions. However, EPA's long held policy is that affirmative defenses, such as the provisions the State is now considering, cannot apply to excess emissions from scheduled maintenance events. See our March 30, 2005 (60 FR 16129 and 16131) limited approval of your January 5, 2004 submittal of revisions to Chapter 101:

"The EPA's interpretation of section 110 of the Act and related policies allows an affirmative defense to be asserted against civil penalties in an enforcement action for excess emissions activities which are sudden, unavoidable or caused by circumstances beyond the control of the owner or operator and where emissions control systems may not be consistently effective during startup or shutdown periods. However, EPA has determined that it is inappropriate to provide an affirmative defense for excess emissions resulting from scheduled maintenance, and to excuse these excess emissions from a penalty action. See 42 FR 21472 (April 27, 1977), 42 FR 58171 (November 8, 1977) and 65 FR 51412 (August 23, 2000)."

EPA's interpretation of the Act and related policies states that maintenance is a predictable event that can be scheduled at the discretion of the operator to coincide with maintenance of production equipment or other source shutdowns in order to ensure prompt corrective action and to minimize excess emissions.¹ See also 68 FR 61650, 61652 (October 29, 2003).

As stated in our limited approval and extension of the limited approval of Texas' existing emissions event rule (March 30, 2005 60 FR 16129 and 16131), EPA cannot approve a blanket affirmative defense for scheduled maintenance activities. Instead, EPA strongly recommends that the State establish an enforcement discretion approach for excess emissions from scheduled maintenance during this transition period. This approach generally requires the source to demonstrate that the excess emissions could not have been reasonably avoided through better maintenance and operational procedures, why the maintenance is needed, and how the emissions were minimized in order to avoid an enforcement action. The State may identify other criteria to facilitate your review of the event. Excess emissions from scheduled maintenance are violations of applicable emission limitations, but establishing criteria to evaluate whether the state will bring an enforcement action may indirectly

¹See, *Memorandum from Steven A. Herman and Robert Perciasepe to Regional Administrators, September 1999, State Implementation Plans (SIPS): Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown*; *Memorandum from John B. Rasnic to Linda M. Murphy, January 28, 1993, Automatic or Blanket Exemptions for excess Emissions During Startup and Shutdowns Under PSD*; and *Memorandum from Kathleen M. Bennett to Regional Administrators, February 15, 1983, Memorandum from Kathleen M. Bennet to Regional Administrators, September 28, 1982, Policy on Excess Emissions During Startup, Shutdown, Maintenance, and Malfunctions.*

encourage good maintenance procedures to minimize the emissions.

Therefore, given the factors considered here, we do not believe the phase-in provisions in section 101.222(h) of the replacement rule are consistent with EPA's interpretation of the Act and therefore, approvable as revisions to the Texas SIP.

EPA requests further information on the State's plans to begin authorizing and implementing maintenance related emissions that are regular and quantifiable, such as plant turnarounds and preventive maintenance such as routine replacement of facility parts, into permitting programs. Please explain how the phase-in period established in this rule relates to that change.

17. Affirmative defense for maintenance activity that arises from sudden and reasonably unforeseeable events beyond the control of the operator that requires immediate corrective action to restore normal operations. Section 101.222 (h) phases in an affirmative defense for maintenance activities in very limited circumstances. We understand that the rule seeks to encourage pre-reporting of maintenance activities that could prevent imminent potential malfunctions. Our initial review indicates that the proposed change may be inconsistent with our 1999 SSM guidance and our rulemakings on similar rules in other states. Notwithstanding the previous comment, EPA will evaluate these provisions for consistency with the Act and EPA related policy and guidance. However, we make the following suggestions at this time.

The proposed rule requires that the owner or operator prove all the criteria listed in 101.222(c) (1) through (9). EPA recommends that the rule repeat the criteria as some formatting changes may be necessary. Also, the criteria must be revised as outlines in comment #15 of this attachment. Also, additional criteria must be added to clarify that the source has the burden to prove: 1) that the maintenance activity arose from sudden and reasonably unforeseeable events that were beyond the control of the operator, and 2) that immediate corrective action was necessary in order to restore normal operations. EPA recommends that the State consider other criteria as necessary to appropriately limit application of these provisions to non-routine and emergency circumstances (i.e., to prevent a malfunction). EPA strongly recommends that these limitations be placed in the criteria, rather in the body of the rule, to ensure that the source or operator bears the burden to prove those limitations have been met before the affirmative defense may be asserted.

HON. LOUIE GOHMERT
FIRST DISTRICT, TEXAS

WASHINGTON OFFICE:
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WASHINGTON, DC 20515
(202) 225-3035
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Congress of the United States
House of Representatives
Washington, DC 20515

August 29 in the Year of our Lord 2007

COMMITTEES
JUDICIARY

NATURAL RESOURCES

SMALL BUSINESS

REPUBLICAN STUDY COMMITTEE

HOUSE POLICY COMMITTEE

Ms. Stephanie Daigle
Associate Administrator for Congressional and Intergovernmental Affairs
Environmental Protection Agency
1200 Pennsylvania Avenue
Room 3426-ARN
Washington, DC 20460

Dear Ms. Daigle:

Please find enclosed a copy of correspondence from my constituent Mr. *EXP. 6*
. I believe you will find this material self explanatory.

Your reviewing this material and providing any assistance and/or information possible under the governing statutes and regulations will be greatly appreciated. Thank you for your attention in this matter, and I look forward to hearing from you soon.

With kindest regards, I am,

Very Truly Yours,

Hon. Louie Gohmert

Encl.

LONGVIEW OFFICE
101 EAST METHVIN STREET, SUITE 302
LONGVIEW, TX 75601
PHONE: (903) 236-8597

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TYLER OFFICE
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TYLER, TX 75701
PHONE: (903) 561-6349
TOLL FREE (866) 535-6302

REQUEST FOR CONGRESSIONAL INQUIRY

TO WHOM IT MAY CONCERN

8-20-2007

Date

I respectfully request and authorize Congressman Louie Gohmert, 1st Congressional District of Texas, to act in my behalf, and to receive information from the proper officials respecting my problem.

Exp-6

Signed

The problem is: People are getting Cancer since oil Company begin putting up wells down in East Hamilton a small community in Pecos Texas in Shelly County. 3 of my family members have died, last of which was on 8-18-07 and a forth one has been taking Chem. at least 8 people ~~more~~ more has gotten some type of Cancer since they started producing oil down there in a community of approx. 80-100 people. Please help me find out if the land, water, or air is contaminated.

Date of Birth: Exp-6 Number(s) (Social Security, VA claim number, etc.): Exp-6

Agency involved: E P A

Please return this form to:

CONGRESSMAN LOUIE GOHMERT
1121 ESE Loop 323, Ste 206
Tyler, TX 75701
Phone: 1-866-535-6302
Fax: 903-561-7110

Name:

Exp-6
(Please print)Exp-6
(Street)Lufkin Texas 75901
(City, State, Zip Code)Angelina
(County)Exp-6
(Telephone Number)

Call Exp-6



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

SEP 28 2007

The Honorable Louie Gohmert
House of Representatives
Washington, DC 20515

Dear Congressman Gohmert:

Thank you for your letter dated August 29, 2007, to Environmental Protection Agency (EPA) Associate Administrator Stephanie Daigle on behalf of your constituent

Exp. L Mr. *Exp. L* seeks assistance in determining if the land, water, or air in the community of East Hamilton in Huxley, Texas, is contaminated as a result of oil wells. He has concern regarding cancer risks. Since Texas is within the jurisdiction of EPA Region 6, your letter has been referred to me for reply.

My staff researched this issue and found no information regarding contamination in the community of East Hamilton. Because the Railroad Commission of Texas (RRC) issues drilling permits, we contacted it, and found it had no information regarding contamination in East Hamilton resulting in health issues for residents in the area.

The Texas Department of State Health Services (DSHS) collects cancer data in Texas. It did not identify Shelby County as having a cancer rate greater than expected. Mr. *Exp. L* may wish to contact DSHS for general information about cancer clusters and to discuss his concern. Ms. Brenda Mokry at the DSHS may be reached at (800) 252-8059. For more information, Mr. *Exp. L* may also access the DSHS Web page at www.dshs.state.tx.us/tcr.

I hope this information is helpful. If I may be of further assistance, please call me at (214) 665-2100, or your staff may contact Lou Roberts of my staff at (214) 665-7579.

Sincerely yours,

Richard E. Greene
Regional Administrator

cc: Heidi Bojes, Toxicologist
Railroad Commission of Texas
Brenda Mokry, Epidemiologist
Texas Department of State Health Services

AL-08-001-0684

HON. LOUIE GOHMERT
FIRST DISTRICT, TEXAS

WASHINGTON OFFICE:
510 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20616
(202) 226-3035
FAX: (202) 226-1230



COMMITTEES:
JUDICIARY
NATURAL RESOURCES
SMALL BUSINESS
REPUBLICAN STUDY COMMITTEE
HOUSE POLICY COMMITTEE

Congress of the United States
House of Representatives
Washington, DC 20515

August 13 in the Year of our Lord 2008

Mr. Christopher Bliley
Associate Administrator for Congressional
And Intergovernmental Relations
Environmental Protection Agency
1200 Pennsylvania Avenue, NW, Room 3426 ARN
Washington, DC 20460

Dear Mr. Bliley:

This letter is in regards to a letter received in my office from 1 *gk* regarding prevention pollution with the building of 4 poultry houses next to her property. It concerns matters within the jurisdiction of your agency.

It would be appreciated if you would have your staff look into this matter and furnish me with a response appropriate to share with my constituent. Your response should be directed to me at my District Office at 1121 ESE Loop 323, Suite 206, Tyler, TX 75701, where this case has been assigned to my Constituent Services Representative, Lisa Blackmon. If you have any questions, please feel free to call Ms. Blackmon at 866-535-6302 or fax at (903) 561-7110.

Thank you for your time and assistance in resolving this matter as soon as possible.

Very Truly Yours,

LOUIE GOHMERT
Member of Congress

LG:lab

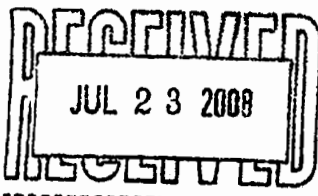
LONGVIEW OFFICE:
101 EAST METHVIN STREET, SUITE 302
LONGVIEW, TX 75601
PHONE: (903) 236-8697

LUFKIN OFFICE:
300 EAST SHEPHERD
LUFKIN, TX 75901
PHONE: (936) 632-3180

MARSHALL OFFICE:
102 WEST HOUSTON STREET
MARSHALL, TX 75670
PHONE: (903) 938-8380

NACOGDOCHES OFFICE:
202 EAST PILAR, SUITE 304
NACOGDOCHES, TX 75861
PHONE: (936) 715-9514

TYLER OFFICE:
1121 ESE LOOP 323, SUITE 206
TYLER, TX 75701
PHONE: (903) 561-6349
TOLL FREE: (866) 535-6302

REQUEST FOR CONGRESSIONAL INQUIRY

TO WHOM IT MAY CONCERN

July 7, 2008
 Date

I respectfully request and authorize Congressman Louie Gohmert, 1st Congressional District of Texas, to act in my behalf, and to receive information from the proper officials respecting my problem.

Exp. 6

Signed

The problem is the impending building of 4 poultry houses on the property adjacent to our new home in San Augustine county. I am concerned most about the air quality. Additionally, I am worried about runoff into the creek that runs through both properties, as well as the ground water level and contamination. The access road, #188, is a very small one lane road with a culvert at a low drainage/creek area. The culvert appears to be of the size for regular, not industrial size vehicles. Also, there is a good length of road that if you encounter a large truck, there is no place for it to back up or turn into to let a vehicle pass. This leaves the residents backing up for as much as several hundred or longer yards. The county commissioner says there are no plans or funds to widen the road or culvert. I am concerned about the lowering of value of our property due to the proximity of these houses. I am concerned about increased nuisance animals, skunks in particular, and the increase of flies. I have spoken to Jerry Robison at the Tyson facility in Center, he told me they have a good neighbor policy, but was unable to address my concerns with a solution. Mr. Welch, the landowner & builder, has once before dumped litter (feathers, feces, etc.) from his current houses on this property (used as road base) and a dead cow. He is aware we don't want the houses next -

Date of Birth:

Exp. 6

Number(s) (Social Security, VA claim number, etc.):

Exp. 6

 Agency involved: E.P.A., T.C.E.Q. &/or Texas Groundwater Conservation

Please return this form to:

Name:

Exp. 6

(Please print)

CONGRESSMAN LOUIE GOHMERT

1121 ESE Loop 323, Ste.206

Tyler, TX 75701

Phone: 1-866-535-6302

Fax: 903-561-7110

(Street)

San Augustine, Tx 75972

(City, State, Zip Code)

(County)

San Augustine

(Telephone Number)

Exp. 6

cell

Exp. 6

to our new home. He has other properties he could build on. I am requesting your help in getting the EPA, TCEQ, or any agency to monitor or establish the air and water quality before this project advances any further.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

SEP 11 2008

The Honorable Louie Gohmert
Member, U.S. House of Representatives
1121 ESE Loop 323, Suite 206
Tyler, TX 75701

Dear Congressman Gohmert:

Thank you for your letter of August 13, 2008, to our Associate Administrator Christopher Bliley regarding concerns your constituent Ms. *Exp 6* has about poultry houses next to her property. Your letter was referred to me for reply since Texas is within the jurisdiction of the Environmental Protection Agency (EPA) Region 6.

Unfortunately, EPA does not currently have regulations that address air quality problems associated with poultry operations. The Texas Commission on Environmental Quality (TCEQ) is the primary agency that regulates nuisance odors in the State of Texas. Ms. *Exp 6* I may wish to contact the complaints coordinator in the TCEQ office in Beaumont, Texas, at (409) 898-3838 for assistance.

Ms. *Exp 6* is also concerned about the potential for runoff from these chicken houses to contaminate the creek that runs through her property. My staff will coordinate with TCEQ and conduct investigations to determine whether this occurs. If any violation of the Clean Water Act is found, EPA or the state will initiate appropriate enforcement actions to address them. Ms. *Exp 6* I may contact Dr. Abu Senkayi of my staff at (214) 665-8403, or the complaints coordinator at TCEQ's office in Beaumont at the above number for assistance.

Should I be able to assist you further, please call me at (214) 665-2100, or your staff may contact Cynthia Fanning of my staff at (214) 665-2142.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Richard E. Greene".

Richard E. Greene
Regional Administrator

cc: Ms. Susan Johnson, TCEQ
Mr. Ronald Herbert, TCEQ

AL-09-000-9572

COMMITTEES
VICE CHAIRMAN-AGRICULTURE
Chairman-CONSERVATION, CREDIT,
ENERGY AND RESEARCH
LIVESTOCK, DAIRY, AND POULTRY

**TRANSPORTATION
AND INFRASTRUCTURE**
HIGHWAYS AND TRANSIT
AVIATION



CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
June 18, 2009

TIM HOLDEN
17TH DISTRICT, PENNSYLVANIA
www.holden.house.gov
2417 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-3817
(202) 225-5546

The Honorable Lisa Jackson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building, Mail Code: 1101A
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Jackson:

We understand that EPA is evaluating its regulatory options for the management of coal combustion byproducts (CCBs) and plans to propose federal management standards for CCBs by the end of the year. This issue involves an important component of the nation's overall energy policy as EPA's decision could affect electricity costs from coal-fired plants, the continued viability of CCB beneficial use practices (which plays a significant role in the reduction of greenhouse gases), and the ability of certain power plants to remain in service. It is important therefore that the final rule reflect a balanced approach that ensures the cost-effective management of CCBs that is protective of human health and the environment, while also continuing to promote and encourage CCB beneficial use. As explained below, we believe that the federal regulation of CCBs pursuant to RCRA's Subtitle D non-hazardous waste authority is the most appropriate option for meeting these important goals.

As part of its evaluation of this issue, EPA has wisely sought input from the States regarding their preferences with respect to the three regulatory options under consideration: (1) federal regulation of CCBs as non-hazardous solid waste under RCRA Subtitle D, (2) regulation as hazardous wastes under RCRA Subtitle C, and (3) a hybrid approach where CCBs would be regulated as hazardous wastes with an exception from hazardous waste regulation for CCBs that are managed in conformance with specified standards.

We understand that, thus far, approximately 20 states, in addition to ASTSWMO, have responded to EPA's request for input on this issue and that *every* State has taken the position that the best management option for regulating CCBs is pursuant to RCRA Subtitle D. The States effectively argue that they have the regulatory infrastructure in place to ensure the safe management of CCBs under a Subtitle D program and, equally important, make clear that regulating CCBs as hazardous waste would be environmentally counter-productive because it would effectively end the beneficial use of CCBs. For the same reasons, the Environmental Council of States (ECOS) has issued a declaration expressly arguing against the regulation of CCBs as hazardous waste under RCRA.

☐ SRBC OFFICE BUILDING
1721 NORTH FRONT STREET, SUITE 105
HARRISBURG, PA 17102
(717) 234-5904

☐ 758 CUMBERLAND STREET
LEBANON, PA 17042
(717) 270-1395

☐ 101 NORTH CENTRE STREET, SUITE 303
POFFTSVILLE, PA 17901
(570) 622-4212

☐ 4918 KUTZTOWN ROAD
TEMPLE, PA 19560
(610) 921-3502

We respectfully suggest that the unanimous position of informed State agencies and associations cannot be ignored as EPA evaluates its regulatory options for CCBs. Among other things, the Bevill Amendment to RCRA directs that, as part of its decision-making process for CCBs, EPA will consult with the States "with a view towards avoiding duplication of effort." RCRA 8002(n). The States have made clear that regulating CCBs under RCRA Subtitle C would result in regulatory overkill and effectively end CCB beneficial uses.

The States' position is not surprising since it reflects EPA's own well-reasoned conclusions on four separate occasions that CCBs do not warrant hazardous waste regulation. EPA has issued two formal reports to Congress, in 1988 and 1999, concluding that CCBs do not warrant hazardous regulation. Most recently in 2000, EPA again determined that the better approach for regulating CCBs is "to develop national [non-hazardous waste] regulations under subtitle D rather than [hazardous waste regulations under] subtitle C. 65 Fed. Reg. 32214, 32221 (May 22, 2000). In reaching this decision, EPA agreed with the States that "the regulatory infrastructure is generally in place at the state level to ensure adequate management of these wastes" and that regulating CCBs as hazardous "would adversely impact [CCB] beneficial use." *Id.* at 32217, 32232.

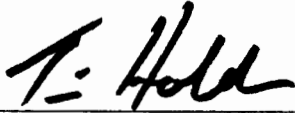
As we know you appreciate, the impact on CCB beneficial use is another statutory consideration that EPA must consider in evaluating its regulatory options for CCBs. *See* RCRA §8002(n)(8); 65 Fed. Reg. at 32232. Given that both EPA and the States have recognized that regulating CCBs as hazardous waste would have an adverse impact on CCB beneficial use, we find it difficult to imagine a legitimate basis for EPA pursuing the hazardous waste regulatory option for CCBs, even the so-called hybrid approach. As EPA correctly reasoned in selecting the Subtitle D approach in its 2000 regulatory determination, it did not want "to place any unnecessary barriers on the beneficial uses of [CCBs], because they conserve natural resources, reduce disposal costs and reduce the total amount of wastes destined for disposal." *Id.* at 32232. As stated earlier, the beneficial use of CCBs will also play a significant role in the country's Climate Change policies.

In addition to promoting increased CCB beneficial use, a Subtitle D approach will be protective of human health and the environment, as EPA has already concluded that State programs are in place to effectively regulate CCBs. *Id.* at 32217. A 2006 EPA/DOE report reinforces this conclusion by confirming the recent development of even more robust state controls for CCBs.

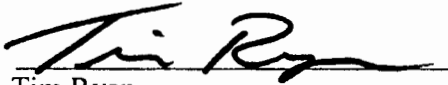
In view of the above, we respectfully urge EPA to work closely with the States in developing a performance-based federal program for CCBs under RCRA's Subtitle D non-hazardous waste authority. Such an approach would meet the Bevill Amendment's goals of ensuring the safe management of CCBs while continuing to promote and expand their beneficial use.

Thank you for your consideration.

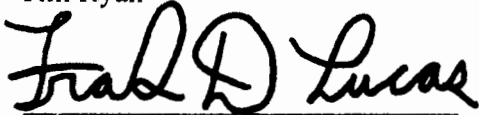
Sincerely,



Tim Holden



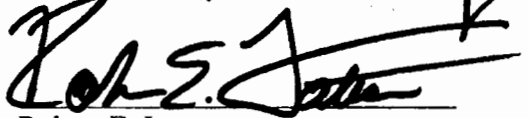
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Frank D. Lucas



Mac Thornberry



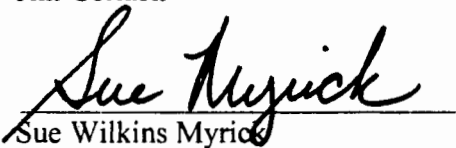
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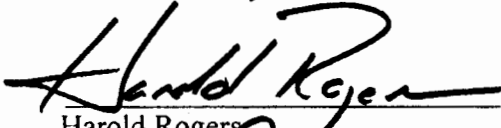
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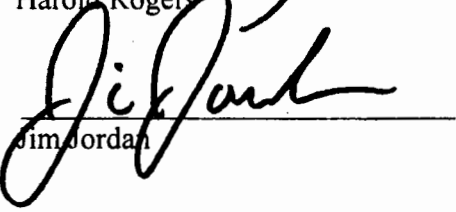
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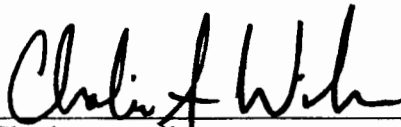
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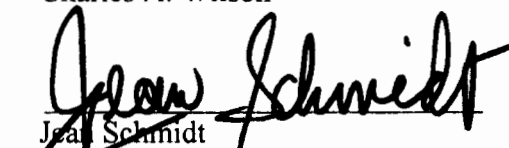
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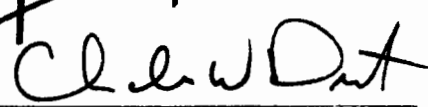
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Charles A. Wilson



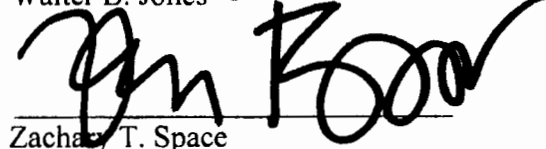
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Charles W. Dent




Walter B. Jones



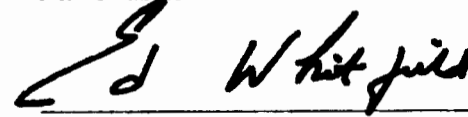
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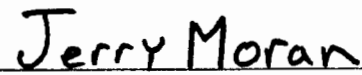
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Bill Shuster



Ed Whitfield

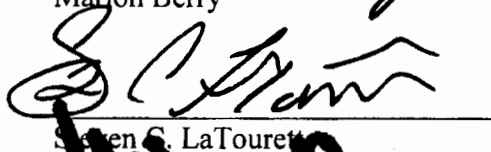


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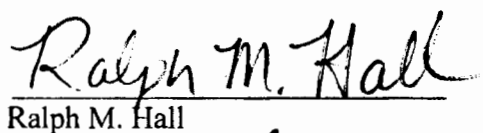


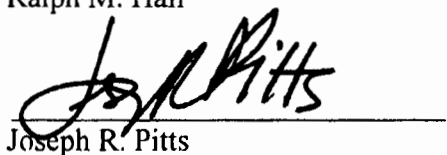
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Marion Berry

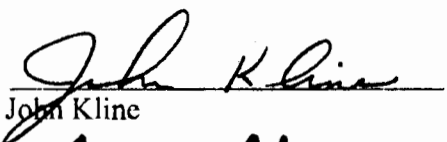

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Mike Ross

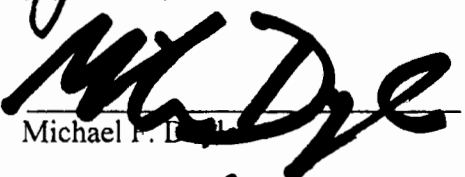

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Joseph R. Pitts

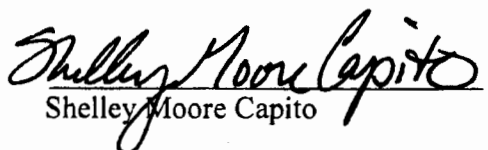

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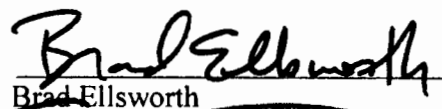

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Jason Altmire

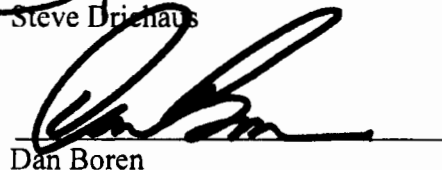

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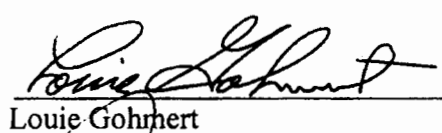

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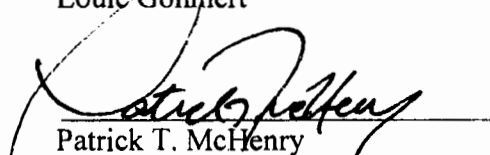

Shelley Moore Capito


Brad Ellsworth

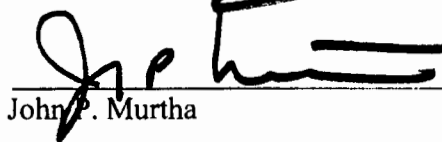

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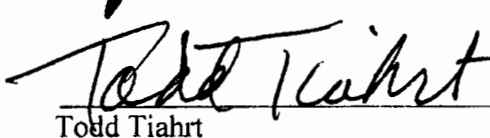

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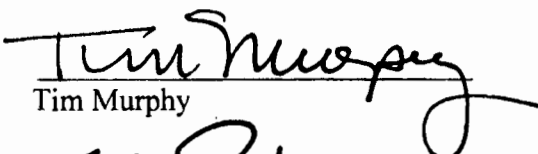

Louie Gohmert

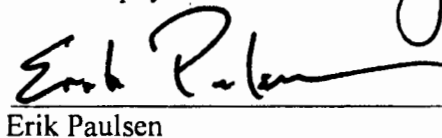

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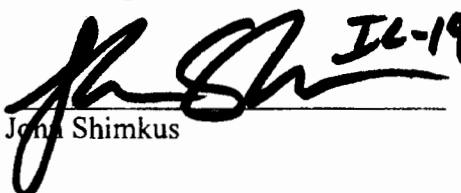

Earl Pomeroy


John P. Murtha


Todd Tiahrt

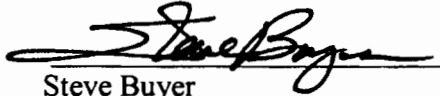

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Erik Paulsen

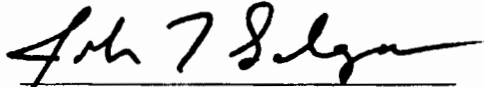

John Shimkus



Bob Goodlatte



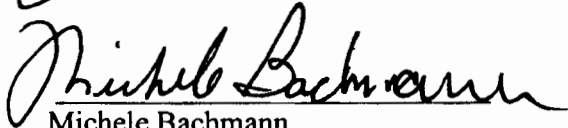
Steve Buyer



John T. Salazar



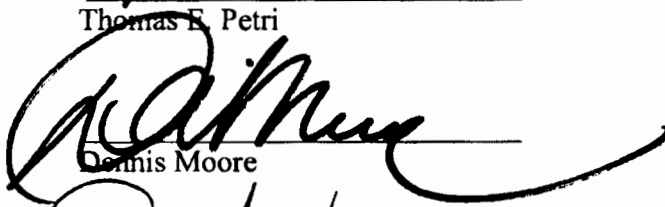
Baron P. Hill



Michele Bachmann



Thomas E. Petri



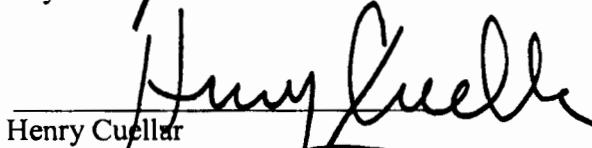
Dennis Moore



Peter J. Visclosky



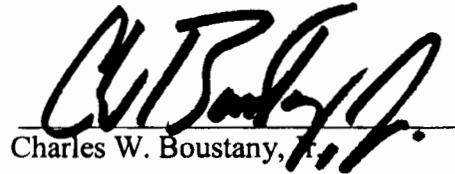
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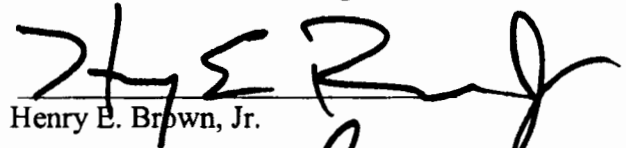
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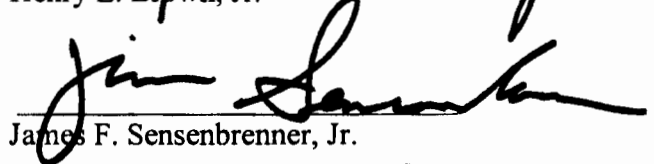
Roscoe G. Bartlett



Charles W. Boustany, Jr.



Henry E. Brown, Jr.



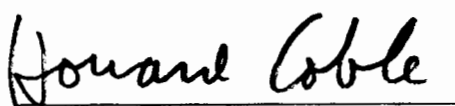
James F. Sensenbrenner, Jr.



J. Gresham Barrett



Denny Rehberg



Howard Coble



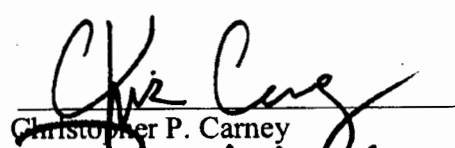
Vic Snyder



Charlie Melancon




W. Todd Akin

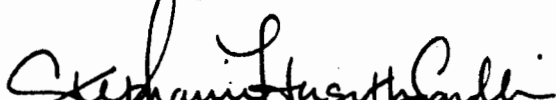


Christopher P. Carney




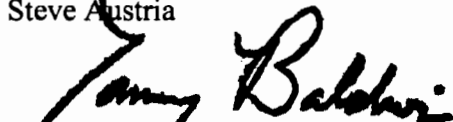
Ron Kind



Glenn Thompson


Stephanie Herseth Sandlin


Parker Griffith



Steve Austria



Tammy Baldwin


Joe Wilson


André Carson


Rick Boucher


Bill Cassidy


Gene Green



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 30 2009

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

The Honorable Louie Gohmert
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Gohmert:

Thank you for your letter of June 18, 2009 expressing your interest in the U.S. Environmental Protection Agency's (EPA) pending rulemaking governing the management of coal combustion residuals (CCR). In your letter, which was also signed by 73 of your colleagues, you requested assurance that EPA will work closely with the states in developing a performance-based federal program for CCR under the Resource Conservation and Recovery Act's Subtitle D non-hazardous waste authority.

EPA intends to issue a proposal, addressing these and other questions, before the end of this calendar year. We will include your letter, as well as those EPA has received from the states, in the docket for the rulemaking.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Amy Hayden, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-0555.

Sincerely,

A handwritten signature in black ink, which appears to read "Mathy Stanislaus", is written over a horizontal line.

Mathy Stanislaus
Assistant Administrator



AL-10-001-3408

Congress of the United States
House of Representatives
Washington, DC 20515-4302

August 3, 2010

The Honorable Lisa P. Jackson
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Administrator Jackson:

We write to express our concern over the Environmental Protection Agency's (EPA) recent attempts to annul the Texas Flexible Permitting Program by circumventing the Texas Commission on Environmental Quality (TCEQ) from the permitting process are very concerning. Over the years, the Flexible Permitting Program has been highly effective in reducing emissions and known pollutants while allowing the industries in Texas to stay competitive.

The Texas Permitting Program has proven to be successful, allowing Texas to be a national leader in reducing pollution. Since 2000, the state of Texas has achieved a 22 percent reduction in ozone and a 53 percent decrease in nitrogen oxide (NOx) emissions, compared to a 15 percent reduction in national ozone levels and a 27 percent reduction in national NOx levels between 2000 and 2008 despite a population growth of 3.5 million. The dismantling of this program would not only create great uncertainty in the industry but would have a devastating effect on the economy.

The TCEQ is committed to adhering to environmental laws and is working diligently to address any issues the EPA has with the Flexible Permitting Program. On June 16, 2010, the TCEQ approved proposed changes to the Flexible Permitting Program to suit the EPA's concerns. It is not known whether or not the proposed changes were taken into consideration before invalidating the Flexible Permitting Program. We encourage the EPA to review the proposed changes made by TCEQ immediately so that a resolution may be made.

We respectfully request a response to the concerns raised in this letter. Thank you for your consideration and attention to this important matter.

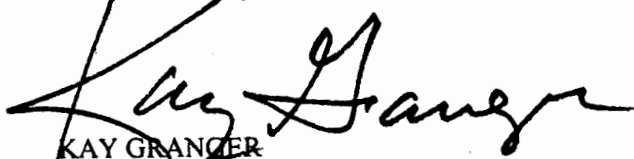
Sincerely,

A handwritten signature in black ink, appearing to read "Ted Poe", with a long horizontal flourish extending to the right.

TED POE
Member of Congress (TX-02)



JOHN CULBERSON
Member of Congress (TX-07)



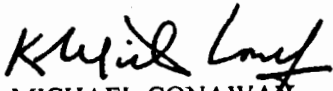
KAY GRANGER
Member of Congress (TX-12)



LOUIE GOHMERT
Member of Congress (TX-01)



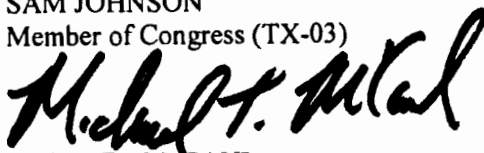
JOE BARTON
Member of Congress (TX-06)



MICHAEL CONAWAY
Member of Congress (TX-11)



SAM JOHNSON
Member of Congress (TX-03)



MICHAEL McCAUL
Member of Congress (TX-10)



PETE OLSON
Member of Congress (TX-22)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS TX 75202-2733

SEP 10 2010

The Honorable Louie Gohmert
House of Representatives
Washington, DC 20515

Dear Congressman Gohmert:

Thank you for your letter dated August 3, 2010, to the U.S. Environmental Protection Agency (EPA) Administrator Lisa P. Jackson regarding EPA's recent actions related to the Texas Commission on Environmental Quality's (TCEQ) air permitting program. Your letter was forwarded to me for reply because Texas is within the jurisdiction of Region 6.

Let me assure you that EPA is not seeking to circumvent or cut off the role of TCEQ in issuing air permits in Texas. Rather, EPA's goal is to ensure that the air program to be implemented by TCEQ meets the requirements of the Federal Clean Air Act (CAA). EPA is responsible for guaranteeing that the people of Texas receive the health protection they deserve – the same level of protection established for all Americans in the CAA. Unfortunately, several TCEQ air permitting rules and practices have contributed to permits that do not provide this guarantee.

This is not a new issue. As early as 1994, EPA began formally identifying concerns to the predecessor of TCEQ about whether changes to the Texas air permitting program, including the addition of the flexible permit rules, provided the same level of public health protection that is provided by federal law. EPA and the State continued this dialogue for many years without resolution. In September 2007, EPA sent letters putting companies with flexible permits on notice that we believed their permits did not comply with the federal CAA. On August 25, 2008, the Business Coalition for Clean Air, the Texas Association of Business, and the Texas Oil and Gas Association filed a complaint in federal court seeking a final resolution to this dialogue. This lawsuit resulted in a settlement requiring EPA to take action on numerous Texas air permitting provisions. One such action was the June 30, 2010, final disapproval of the flexible permit program.

In addition to these program actions, on October 30, 2009, EPA began to issue formal objections to operating permits issued by TCEQ to major sources that relied on flawed regulations and where permits did not satisfy minimum operating permit requirements. Before EPA began to issue these objections, we met with both TCEQ and industry and informed them of our intention to begin issuing such permit objections. To date, we've issued approximately 40

permit objection letters to proposed Title V operating permits. Under the CAA, a permitting authority has 90 days from the date of an EPA objection to an operating permit to correct the permit, or EPA is required to issue or deny the Title V operating permit. Until the end of June 2010, TCEQ had not responded as required by federal regulations to many of the objections EPA had issued with revised permits. Further, in a letter to EPA dated May 24, 2010, TCEQ's Executive Director wrote, "It seems the only way EPA or TCEQ will be able to understand what is expected to alleviate any Title V (operating permit) programmatic objections is for EPA to issue a Title V permit." He continued that EPA's ability to issue permits would, "ensure the timely issuance of permits." EPA made the difficult decision to begin sending federal permit applications requests because neither the source, nor TCEQ, has corrected the deficiencies identified in our Title V permit objections. EPA did not circumvent the TCEQ permitting process by requesting these Part 71 permit applications, but instead followed requirements established under the Clear Air Act. To date, EPA has requested permit applications from three companies.

You also wrote that you believe the TCEQ flexible permitting program has been successful in improving the air quality in Texas over the past 10 years. While air quality has indeed improved in Texas in recent years, as it has throughout the country, the fact remains that many Texans are living in areas where air quality does not meet federal standards set to protect the health and welfare of citizens. A permitting program that complies with the CAA is an essential part of every state's clean air program, and assures that industrial facilities contribute effectively to emission reduction goals. Air permitting rules in Texas have resulted in problems for the public and EPA, including a lack of clarity and obstacles to the practical enforceability of permits. Many of the companies with flexible air permits in Texas also operate in other states. These other states, including ones with heavy industrial activity, have not ignored the minimum protections provided by America's Clean Air Act, and these same companies have continued to operate profitably.

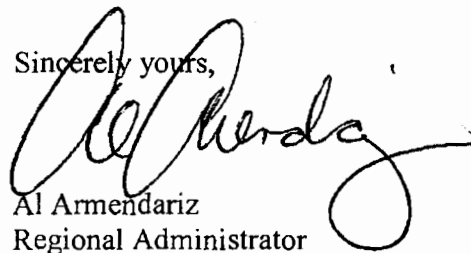
We continue to believe that TCEQ and EPA can work together to find common ground for a permitting program that meets federal requirements, as well as the needs of the public and business community in Texas. We provided TCEQ comments on its flexible permit proposed rule changes on August 2, 2010; we are working cooperatively with TCEQ and a number of companies, including oil refiners and petrochemical companies, to begin the process of correcting their permits through submittal of revised permits to TCEQ; and EPA took the initiative to create a series of open meetings with industry to discuss these issues and we will

continue to meet with any business seeking to resolve ongoing compliance issues. The result will be state and federally enforceable permits that include clear unit-specific emission limitations, monitoring, recordkeeping and reporting requirements.

I appreciate your staff taking the time to speak with Assistant Administrator Gina McCarthy and me on August 26, 2010. I enjoyed the opportunity to speak with your staff about these issues. Collaboration between TCEQ and EPA has resulted in national environmental successes in the past and we believe it will in the future. We are committed to our continued work with TCEQ, the public and Texas businesses in a spirit of partnership to provide every Texan the health protection they deserve.

I hope this is helpful in addressing your concerns. If you have any further questions, please contact me at (214) 665-2100, or your staff may contact Ms. Cynthia Fanning of my staff at (214) 665-2142.

Sincerely yours,



Al Armendariz
Regional Administrator

Identical Letters Sent To:
Please see page 4

Identical Letters Sent To:

The Honorable Joe Barton
House of Representatives

The Honorable Michael Conaway
House of Representatives

The Honorable John Culberson
House of Representatives

The Honorable Ted Poe
House of Representatives

The Honorable Kay Granger
House of Representatives

The Honorable Sam Johnson
House of Representatives

The Honorable Michael McCaul
House of Representatives

The Honorable Pete Olson
House of Representatives

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AND INFRASTRUCTURE
HIGHWAYS AND TRANSIT
AVIATION

AL-10-001-2986



CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES

July 29, 2010

TIM HOLDEN

17TH DISTRICT, PENNSYLVANIA

www.holden.house.gov

2417 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-3817
(202) 225-5546

The Honorable Lisa Jackson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building, Mail Code: 1101A
1200 Pennsylvania Avenue, NW
Washington, DC 20460

RE: Hazardous and Solid Waste Management System; Identification and Listing of
Special Wastes; Disposal of Coal Combustion Residuals from Electric Utilities;
Docket ID No. EPA-HQ-RCRA-2009-0640

Dear Administrator Jackson:

Thank you for the opportunity to comment on the above referenced proposed rule, published in the *Federal Register* on Monday, June 21, 2010. As you evaluate the development of federal regulations for coal combustion residuals produced by power plants that supply approximately half of the nation's electricity needs, also known as coal combustion byproducts (CCB), we urge you to craft an approach that protects public health and the environment without unnecessarily burdening the economy and jeopardizing important manufacturing and other related jobs.

We strongly recommend that EPA resist calls to regulate CCB as a listed waste under the hazardous waste authorities of subtitle C of the Resource Conservation and Recovery Act (RCRA). A hazardous waste approach represents the most extreme and burdensome regulatory option available to EPA under federal law, is wholly unnecessary, and inconsistent with past Agency decisions. Instead, we urge EPA to develop non-hazardous waste controls for CCB under subtitle D of RCRA for the disposal of CCB in surface impoundments and landfills, consistent with its 2000 Regulatory Determination.

Decades of work by EPA under both Democratic and Republican administrations implementing the Bevill Amendment to RCRA have consistently affirmed – in two Reports to Congress and two related Final Regulatory Determinations – that regulating CCB under RCRA subtitle C is *not* necessary to protect public health and the environment. In fact, EPA found that such regulation would be environmentally counter-productive because the stigma and related liability concerns of regulating CCB under RCRA's hazardous waste program would understandably have an adverse impact on the important objective of increasing CCB beneficial use.

EPA recently reaffirmed its conclusion that subtitle D controls are protective for the disposal of CCB as evidenced by its decision that management of the CCB from the

☐ SRBC OFFICE BUILDING
1721 NORTH FRONT STREET, SUITE 105
HARRISBURG, PA 17102
(717) 234-5904

☐ 758 CUMBERLAND STREET
LEBANON, PA 17042
(717) 270-1395

☐ 101 NORTH CENTRE STREET, SUITE 303
POTTSVILLE, PA 17901
(570) 622-4212

☐ 4918 KUTZTOWN ROAD
TEMPLE, PA 19560
(610) 921-3502

Kingston TVA spill in a subtitle D landfill would be fully protective of human health and the environment. EPA readily acknowledges in the pending CCB proposal that subtitle D non-hazardous waste controls for CCB will provide an equivalent level of protection for CCB disposal units as would hazardous waste controls under RCRA subtitle C.

There also is little question that the subtitle C option would have an adverse impact on jobs creation at a time when the nation is still attempting to recover from one of the worst recessions in our history and millions of people remain out of work. We simply cannot condone a regulatory option that harms rather than helps in the creation of new jobs, but unfortunately that is precisely what the subtitle C option would do.

We have heard from many companies in the still emerging CCB beneficial use markets that are seeing jobs lost from the mere suggestion of regulating CCB under RCRA's hazardous waste program. State departments of transportation have cautioned that the subtitle C option would put further restrictions on the important use of CCB in highway and other infrastructure projects. This could have an adverse impact on employment as available alternatives to CCB use in highway projects are considerably more expensive and would reduce the number of projects that could be covered by federal and state funds.

State environmental protection agencies have uniformly warned EPA that regulating CCB under RCRA's hazardous waste regime would immediately more than double the volume of wastes subject to hazardous waste controls, overwhelming the state budgets and employee resources needed to administer these new regulations. These economic burdens on the states will cause even more financial stress on already stretched state budgets, further accelerating the cuts in state jobs.

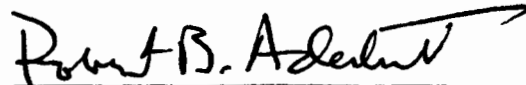
We are also concerned that the increased compliance costs under the subtitle C option will translate into increased energy rates for millions of American consumers, which will unnecessarily inhibit consumer spending and further burden our collective goal of an economic recovery.

In short, there is simply no basis to pursue the subtitle C option for CCB with its attendant adverse impacts on jobs creation and economic recovery, when an equally protective and more cost-effective alternative is available for CCB under RCRA's subtitle D non-hazardous waste program. We therefore strongly encourage EPA to pursue the subtitle D option in the final CCB rule.

Thank you for your attention to this important matter.

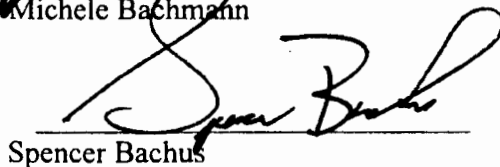
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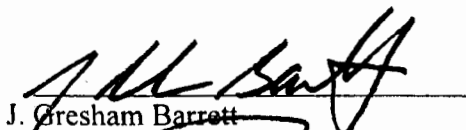

Tim Holden


Robert B. Aderholt


Steve Austria

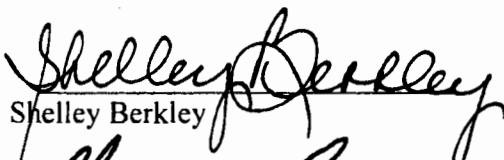

Michele Bachmann

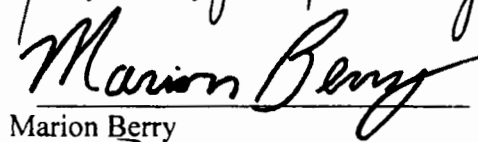

Spencer Bachus

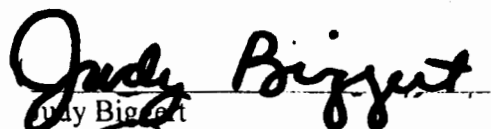

J. Gresham Barrett

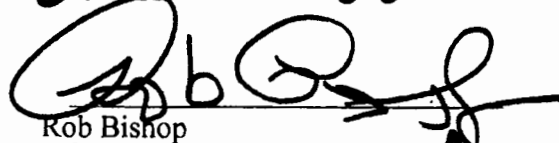

Roscoe G. Bartlett


Joe Barton

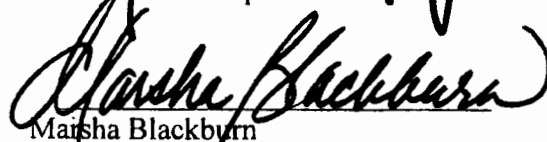

Shelley Berkley


Marion Berry

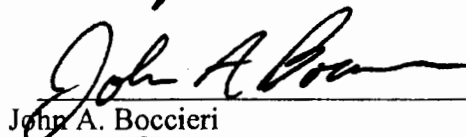

Judy Biggert


Rob Bishop

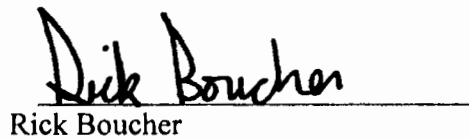

Sanford D. Bishop Jr.

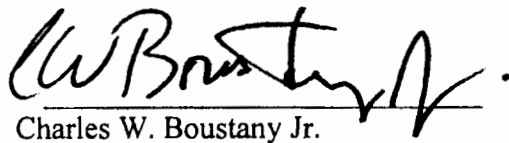

Maisha Blackburn

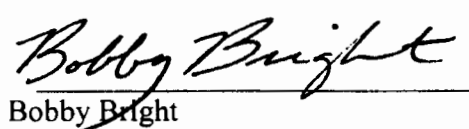

Roy Blunt

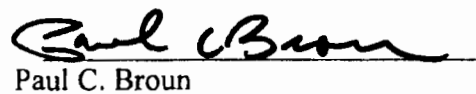

John A. Boccieri


Jo Bonner


Rick Boucher

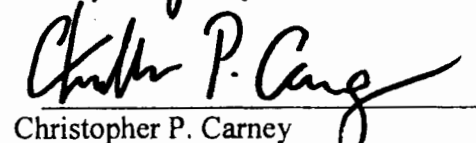

Charles W. Boustany Jr.

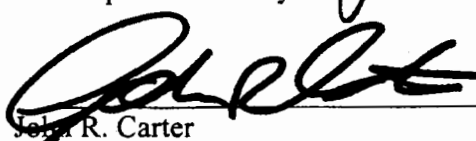

Bobby Bright

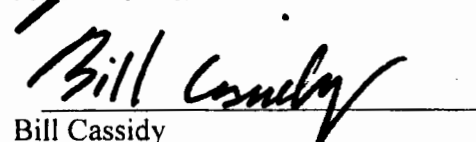

Paul C. Broun


Eric Cantor

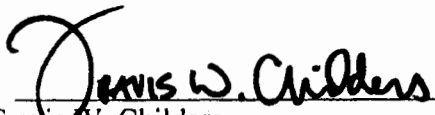

Shelley Moore Capito



Christopher P. Carney

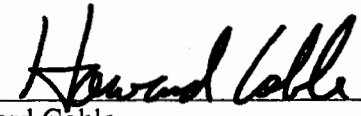

John R. Carter

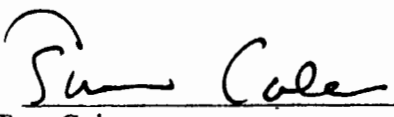

Bill Cassidy



Jason Chaffetz

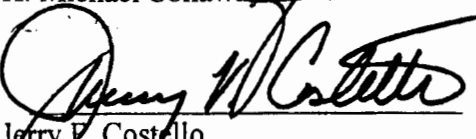

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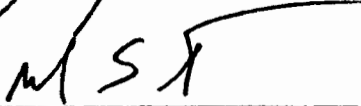

Donna Christensen


Howard Coble



Tom Cole

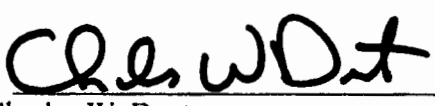

K. Michael Conaway



Jerry F. Costello


Mark S. Critz

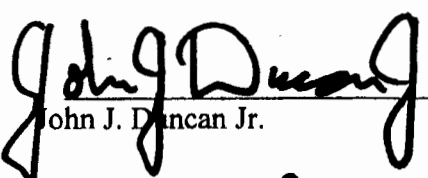

Kathleen A. Dahlkemper


Geoff Davis


Charles W. Dent

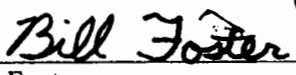

Joe Donnelly


Michael F. Doyle

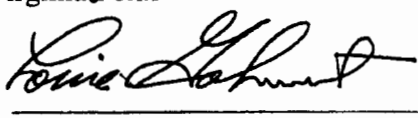

John J. Duncan Jr.

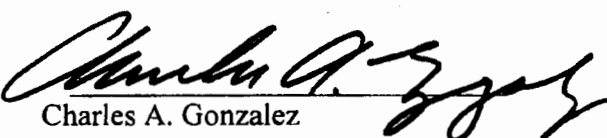

Jo Ann Emerson



John Fleming

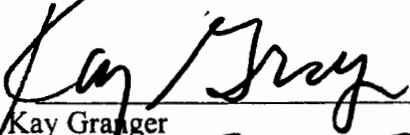

Bill Foster

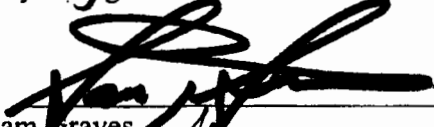

Virginia Foxx

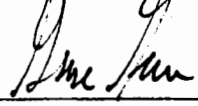

Louie Gohmert


Charles A. Gonzalez


Bob Goodlatte


Kay Granger


Sam Graves


Gene Green

Brett Guthrie

Brett Guthrie

Ralph M. Hall

Ralph M. Hall

Deborah L. Halvorson

Deborah L. Halvorson

Gregg Harper

Gregg Harper

Stephanie Herseth Sandlin

Stephanie Herseth Sandlin

Baron P. Hill

Baron P. Hill

Bob Inglis

Bob Inglis

Lynn Jenkins

Lynn Jenkins

Walter B. Jones

Walter B. Jones

Jim Jordan

Jim Jordan

Steve Kagen

Steve Kagen

Ron Kind

Ron Kind

Steve King

Steve King

John Kline

John Kline

Doug Lamborn

Doug Lamborn

Tom Latham

Tom Latham

Steven C. LaTourette

Steven C. LaTourette

Robert E. Latta

Robert E. Latta

John Linder

John Linder

Frank D. Lucas

Frank D. Lucas

Blaine Luetkemeyer

Blaine Luetkemeyer

Cynthia M. Lummis

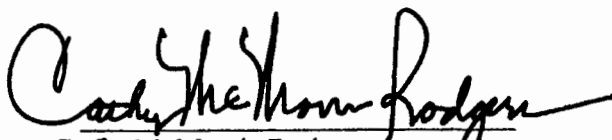
Cynthia M. Lummis

Michael T. McCaul


Michael T. McCaul


Mike McIntyre

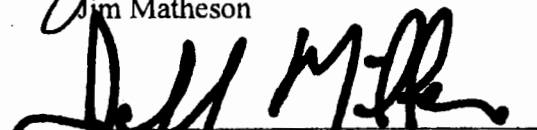
Mike McIntyre

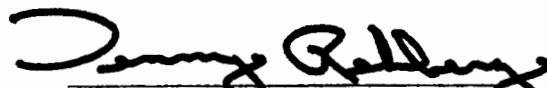

Cathy McMorris-Rodgers



Todd Russell Platts



Jim Matheson



Earl Pomeroy


Jeff Miller

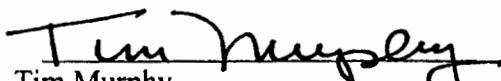

Denny Rehberg

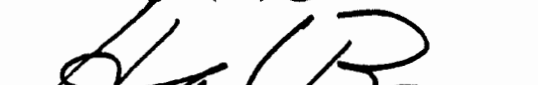

Alan B. Mollohan



Ciro D. Rodriguez



Jerry Moran

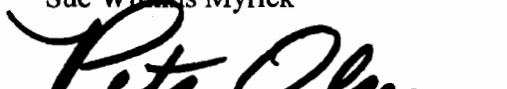

Mike Rogers (AL)



Tim Murphy


Harold Rogers


Sue Wilkins Myrick



Mike Ross



Pete Olson


Paul Ryan



Erik Paulsen

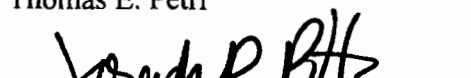

Tim Ryan



Collin C. Peterson


John T. Salazar


Thomas E. Petri

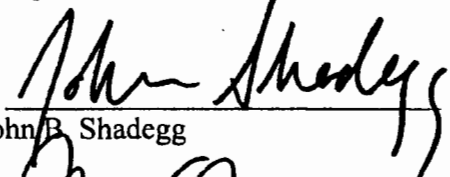

Jean Schmidt


Joseph R. Pitts

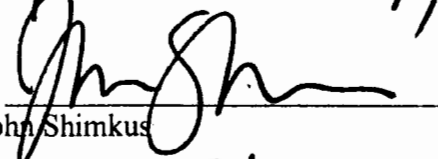

Aaron Schock



F. James Sensenbrenner Jr.



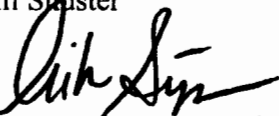
John B. Shadegg



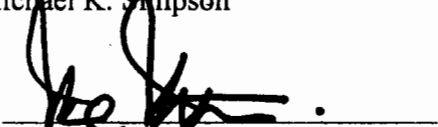
John Shimkus



Bill Shuster



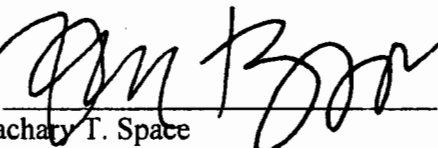
Michael K. Simpson



Ike Skelton



Adrian Smith



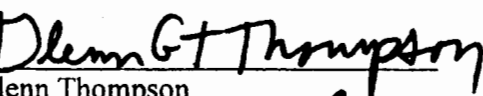
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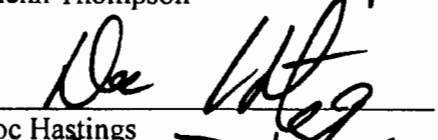
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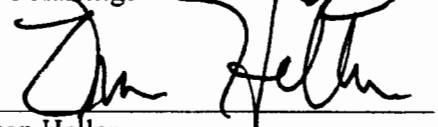
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Glenn Thompson



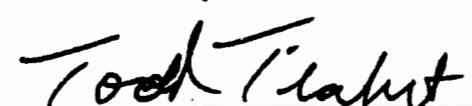
Doc Hastings



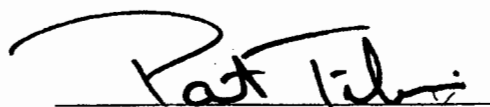
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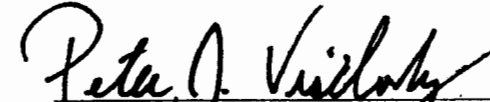
Mac Thornberry



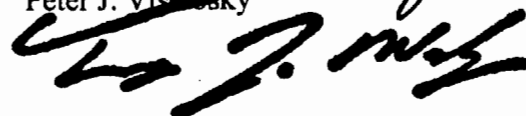
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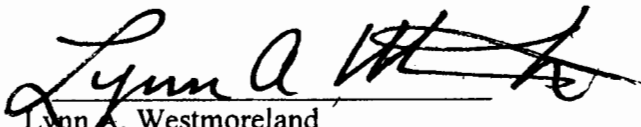
Patrick J. Tiberi



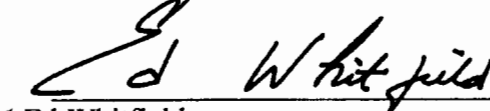
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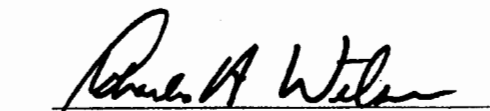
Timothy J. Walz



Lynn A. Westmoreland



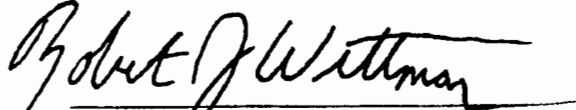
Ed Whitfield



Charles A. Wilson



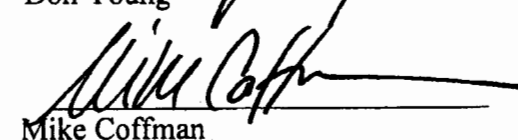
Joe Wilson



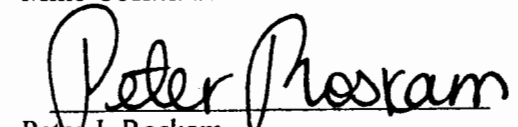
Robert J. Wittman



Don Young



Mike Coffman



Peter J. Roskam



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP - 1 2010

The Honorable Louie Gohmert
U.S. House of Representatives
Washington, D.C. 20515

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

Dear Congressman Gohmert:

Thank you for your letter of July 29, 2010 to U.S. Environmental Protection Agency (EPA) Administrator Lisa P. Jackson, expressing your interest in EPA's proposed rulemaking governing the management of coal combustion residuals (CCRs) and the potential adverse impacts associated with a possible re-classification of CCRs as a hazardous waste. I appreciate your interest in these important issues.

In the proposed rule, EPA seeks public comment on two approaches available under the Resource Conservation and Recovery Act (RCRA). One option is drawn from remedies available under Subtitle C, which creates a comprehensive program of federally enforceable requirements for waste management and disposal. The other option includes remedies under Subtitle D, which gives EPA authority to set performance standards for waste management facilities which are narrower in scope and would be enforced primarily by those states who adopt their own coal ash management programs and by private citizen suits. EPA estimated the potential impact of the proposed rule on electricity prices assuming that 100% of the costs of the rule would be passed through to coal-fired electric utility customers. EPA estimated a potential increase of 0.015 cents per kilowatt-hour under the Subtitle D option to 0.070 cents per kilowatt-hour under the Subtitle C option in potential average electricity prices charged by coal-fired electric utility plants on a nationwide basis.

EPA is not proposing to regulate the beneficial use of CCRs. EPA continues to strongly support the safe and protective beneficial use of CCRs. However, EPA has identified concerns with some uses of CCRs in an unencapsulated form, in the event proper practices are not employed. The Agency is soliciting comment and information on these types of uses.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Raquel Snyder, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-9586.

Sincerely,

A handwritten signature in black ink, reading "Mathy Stanislaus", is positioned above the typed name.

Mathy Stanislaus
Assistant Administrator

AL-10-02-3216

Congress of the United States
Washington, DC 20515

August 2, 2010

Administrator Lisa Jackson
Environmental Protection Agency
1200 Pennsylvania Avenue
Washington, DC 20460-3300

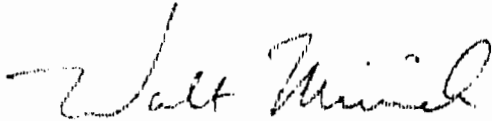
Dear Administrator Jackson:

We are writing to express our concern about the proposed Boiler MACT rule -- the Maximum Achievable Control Technology rule for industrial, commercial and institutional boilers and process heaters -- that was published on June 4th. As our nation struggles to recover from the current recession, we are deeply concerned that the potential impact of pending Clean Air Act regulations could be unsustainable for U.S. manufacturing and the high-paying jobs it provides. As the national unemployment rate hovers around 10 percent, and federal, state, and municipal finances are in dire straits, hundreds of thousands of manufacturing workers have lost their jobs in the past year alone. The flow of capital for new investment and hiring is still seriously restricted, and could make or break the viability of continued operations. Both small and large businesses are vulnerable to extremely costly regulatory burdens, as well as municipalities, universities, federal facilities, and commercial entities. While we support efforts to address serious health threats from air emissions, we also believe that regulations can be crafted in a balanced way that sustains both the environment and jobs.

We understand that the Boiler MACT rule alone could impose tens of billions of dollars in capital costs at thousands of facilities across the country. Thus, we appreciate your willingness, as expressed in your responses to other recent Congressional letters, to consider flexible approaches that appropriately address the diversity of boilers, operations, sectors, and fuels that could prevent severe job losses and billions of dollars in unnecessary regulatory costs. The proposal asks for comment on an approach that would allow facilities to demonstrate that emissions of certain pollutants do not pose a public health threat. The discussion concludes that the use of the authority under section 112(d)(4) is discretionary and the Agency does not support its use in Boiler MACT. We believe that provision reflects Congress' intent to provide for flexibility where there is not a public health threat. In such cases, it makes sense to allow that approach in the final rule for threshold substances such as hydrogen chloride and manganese. In addition, EPA should use a method to set emissions standards that is based on what real world best performing units actually can achieve. EPA should not ignore biases in its emissions database, the practical capabilities of controls or the variability in operations, fuels and testing performance across the many regulated sectors.

As EPA turns to developing a final Boiler MACT rule, we hope you will carefully consider sustainable approaches that protect the environment and public health while fostering economic recovery and jobs within the bounds of the law. Thank you for your consideration of these views.

Sincerely,



Walt Minnick
Member of Congress



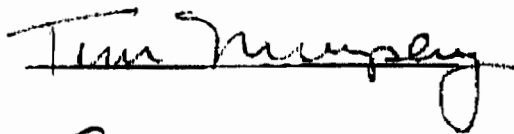
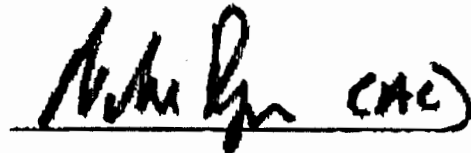
Robert B. Aderholt
Member of Congress



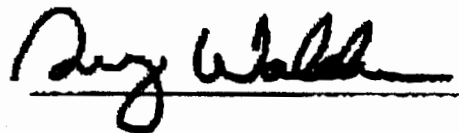
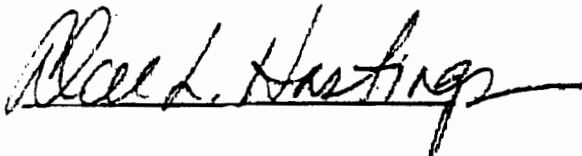
G.K. Butterfield
Member of Congress

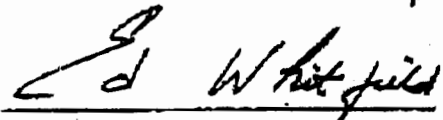
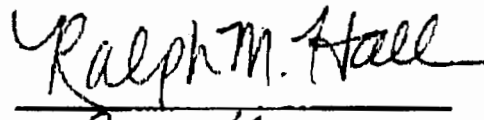
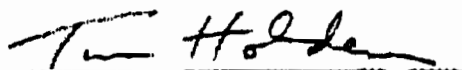
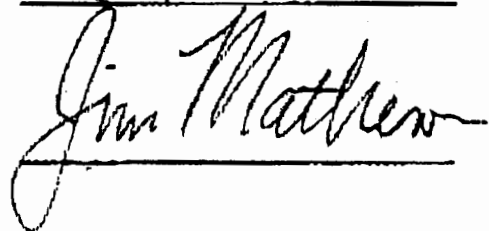


John Shimkus
Member of Congress



Scott Murphy

Bob B

Glenn GT Thompson

Arthur Davis

Carl

Frank

Kenny MacInt

Phil King

Candice S. Miller

MTB

Mal Rog (M2.8)

Wally Hergen

Bill Shuster

John B

Patricia

Sue Myrick

Kari B

John Black

Gregg Harper

Rosby

Charles J. Melton
LA-03

Paul Davis

Robert Gifford

Joseph R. Pitts

Harold

Phil Kane

David Scalis

Charles P. Cag

Jim Marshall

Robert M. Mays

John E.

Chad

William

Ann E.

Brett Guthrie

Rene Schmitt

Lang Kinner

Jan Schmidt

Kathy Dell

John J. Dunning

John Brennan
 Cynthia P. Lunnis

Steve Chaffetz

John Fleming
 Jeff Davis

William H. Hargis
 Bob Smith

Billy Braght
 Ryan W.
 Steve Kagen MD

Ann Turner
 John Spratt

Kurt Schumaker

Howard L. Buehl

Virginia Foxe

Frank
 Mrs. Cooney

Bob Elder

Michael H. Michael

Joe Donnelly

Dick Boucher

Irene Barker

Jo Bonner

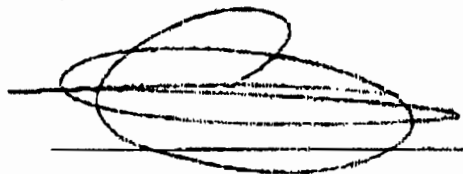
Marion Berry

Bill Owen

Pete Olson

Lee Hg

Harold White



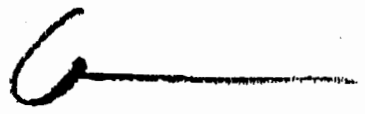
Bart Stupak

Bob Goodlatte

Jim Oberstar

Tim Peter

Johnny Rollberg



Mike McIntyre

Rob Lipton

Frank Math

Dennis W. Childers

Daniel Lipinski

Robert J. Bingham

Shelley Moore Caputo

Gunn Emerson

SEZ

Christopher Lee

Stephanie Hewitt Sandlin

Mike Row

Jeff Miller

Colin Doherty

cc: Regina McCarthy, Environmental Protection Agency
Robert Perciasepe, Environmental Protection Agency
Robert Sussman, Environmental Protection Agency
Cass Sunstein, Office of Management and Budget
Lawrence Summers, National Economic Council



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 26 2010

OFFICE OF
AIR AND RADIATION

The Honorable Louie Gohmert
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Gohmert:

Thank you for your letter of August 2, 2010, co-signed by 105 of your colleagues, to the U.S. Environmental Protection Agency (EPA) concerning the potential economic impact of the proposed standards for industrial, commercial, and institutional boilers and process heaters (the Boiler MACT). The Administrator asked that I respond to your letter.

As you may know, EPA's maximum achievable control technology standards, or MACT standards, are based on the emissions levels already achieved by the best-performing facilities. When developing a MACT standard for a particular source category, EPA looks at the level of emissions currently being achieved by the best-performing similar sources through clean processes, control devices, work practices, or other methods. These emission levels set a baseline (often referred to as the "MACT floor") for the new standards. To set the MACT floor, EPA follows a series of steps. First, EPA ranks the performance of each unit for which we have data from lowest to highest emitting. Second, we average the emissions of the top performing 12 percent of units, taking into account the variability in the performance of those units. Third, we incorporate this statistical variability to set the numerical emission limit. We repeat this process for each air toxic in a category. At a minimum, a MACT standard must achieve, throughout the industry, a level of control that is at least equivalent to the MACT floor. EPA can establish a more stringent standard when this makes economic, environmental, and public health sense.

These rules are an important part of our continued commitment to reducing toxic air pollution in communities. Many of the approaches that facilities may choose to meet the proposed emission limits have been available and in use for decades – from add-on control technologies such as baghouses, carbon injection or scrubbers to good combustion practices and increased energy efficiency.

When completed, the boiler rules would improve air quality by reducing emissions of highly toxic chemicals – including mercury and lead – from sources nationwide. Combined, the boiler proposals would reduce more than 16,000 pounds of mercury emissions – including deep cuts in mercury emissions from industrial boilers, which are among the top three sources of mercury emissions in the United States. Mercury and lead can cause adverse effects on children's developing brains, including effects on IQ, learning, and memory. The boiler rules

would also reduce emissions of other pollutants including cadmium, dioxin, furans, formaldehyde and hydrochloric acid. These pollutants can cause cancer or other adverse health effects in adults and children.

We estimate the proposed cuts would have direct benefits to many communities where people live very close to these units – including combined health benefits estimated at \$18 billion to \$43 billion annually. As proposed, each year these rules would avoid an estimated 2,000 to 5,100 premature deaths, 1,400 cases of chronic bronchitis, 35,000 cases of aggravated asthma, and 1.6 million occurrences of acute respiratory symptoms.

In your letter, you request that EPA give appropriate attention to the economic impacts of the boiler rules, including the potential for job losses resulting from the large capital costs that may be required to meet the standards. The public comment period for the proposed rulemakings closed on August 23, 2010, and we are in the process of summarizing the comments, including those contained in your letter, so that we can make informed decisions using all of the information that is available to us. To the extent that new information has been provided that supports changes to the standards that could lessen the economic impacts while still fulfilling our obligations under the statute, we will give full consideration to such information. In addition, we specifically requested comment on several flexible approaches that could lessen the economic impacts of the rules, and to the extent that we receive new information that demonstrates that such provisions are allowed under the statute, we will revise the final rule as appropriate. We requested that additional data be provided to EPA so that the standards can be based on a robust data set that accurately portrays the emission reductions achieved by the best performing sources, including variability. We will incorporate new data into our analyses as we develop the final standards.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Cheryl Mackay, in EPA's Office of Congressional and Intergovernmental Relations, at 202-564-2023.

Sincerely,

A handwritten signature in black ink, appearing to read "Gina McCarthy", with a stylized, flowing script.

Gina McCarthy
Assistant Administrator

HON. LOUIE GOHMERT
FIRST DISTRICT, TEXAS

WASHINGTON OFFICE:
 511 CANNON HOUSE OFFICE BUILDING
 WASHINGTON, DC 20515
 (202) 225-3035
 FAX: (202) 226-1230



COMMITTEES:
JUDICIARY

NATURAL RESOURCES

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HOUSE POLICY COMMITTEE

Congress of the United States

House of Representatives

Washington, DC 20515

June 16 in the Year of our Lord 2010

AL-18-001-1335

Joyce K. Frank
 Environmental Protection Agency
 1225 New York Avenue, NW, Room 3426 ARN
 Washington, DC 20460

To Whom It May Concern,

Please find enclosed a copy of correspondence from Mr. *Exple* of Flint, TX. I believe you will find this material self explanatory.

Your reviewing this material regarding his concerns about the Lake Columbia Project Draft Environmental Impact Statement (Draft EIS) will be greatly appreciated. Thank you for your attention in this matter concerning my constituent's personal observations, and I look forward to hearing from you soon.

With kindest regards, I am

Very truly yours,

Hon. Louie Gohmert

LONGVIEW OFFICE:

101 EAST McIVIN STREET, SUITE 302
 LONGVIEW, TX 75601
 PHONE: (903) 236-0597

LUFKIN OFFICE:

300 EAST SHEPHERD
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102 WEST HOUSTON STREET
 MARSHALL, TX 75670
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 NACOGDOCHES, TX 75961
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TYLER OFFICE:

1121 ESE LUMP 323, SUITE 206
 TYLER, TX 75701
 PHONE: (903) 561-8389

Congressman Louie Gohmert
101 East Methvin, Ste 302
Longview, Texas 75601
903-236-8597

June 2, 2010

Re: The Lake Columbia Project Needs Your Immediate Attention

Dear Representative Gohmert:

I understand that the Lake Columbia Project Draft Environmental Impact Statement (Draft EIS) a very detailed document that was carefully prepared and met usual and customary NEPA environmental standards as overseen by the USCOE. The Draft EIS was recently reviewed and received a rating of EU-3 from the EPA. *EU (Environmentally Unsatisfactory). 3. The potential environmental impacts resulting from the proposed action are of national importance because of the threat to national environmental resources or to environmental policies.* I also understand that the EPA did not provide an explanation of how to overcome the EU-3 rating. Please provide a congressional inquiry as to how to proceed and to help the State and Federal agencies move the project forward. EPA staff was not specific in what was unsatisfactory in the Draft EIS comments, which left ANRA and USACE scratching their head as to how to move forward. If additional documentation and studies are required it would be helpful if the EPA staff could site specifically what they are looking for in terms of Go By's or Example's for the Final EIS and what goals they hope to accomplish. The EPA needs to let ANRA and USACE know if they are holding this project to a new environmental standard. If they are then ANRA needs something tangible such as a goal or an outcome in order to go forward. It would also be helpful to know if additional preservation or mitigation might be required to compensate for environmental impacts over and above what has been negotiated by the Corps of Engineers. Of course those that are emotionally invested with the project locally feel that this could be construed as a delay tactic or a project killing tactic. With more than two decades of engineering experience in east Texas for Federal, State, County, and City projects, I don't perceive this ruling as a deal killer, unless the EPA comes out with specific environmental issues that can not be overcome.

<http://www.anra.org/>

ANRA Contact:

Angelina & Neches River Authority
Attn: Mr. Kelley Holcomb, General Manager
PO Box 387
210 Lufkin Ave
Lufkin, Texas 75902
936-632-7795
kholcomb@anra.org

USACE Contact:

Department of the Army
U.S. Army Engineer District, Fort Worth
Corps of Engineers
Regulatory Branch, CESWF-PER-R
Attn: Ms. Jennifer Walker or Brent Jasper
P.O. Box 17300
Fort Worth, Texas 76102-0300
(817) 886-1733
brent.j.jasper@usace.army.mil

The (Draft EIS) Draft Environmental Document was commissioned by the Angelina and Neches River Authority. The Draft EIS preparation was managed by the US Army Corps of Engineers Ft Worth Office. The USACE hired a

Environmental Firm to prepare the Engineering and Environmental data in the draft EIS. The economic and environmental studies have been ongoing for more than 10 years. In late February and early March 2010 Public Meetings and a Public Hearing was held in Jacksonville Texas. I attended all of the meetings. There was no opposition to the lake expressed by those in attendance. The EPA staff was not in attendance at any of these meetings.

Visionaries many years ago thought of the Lake Columbia (formerly Lake Eastex, Mud Creek Lake) project as a way of guaranteeing the ability to provide drinking water for our next generation of North East Texans at an economical price.

The human population is rapidly expanding in the East Texas area. Communities from Mineola through Tyler to Lufkin. Local roadway traffic in the 1970's doubled and in the 1980's tripled in Tyler and the surrounding community. Traffic normally doubles every 20 years. North East Texas has received abnormal population growth. In 2009, Lake Palestine was tapped by the City of Tyler to try to keep up with the increased peak water demand. For the first time in the past few years Tyler and the surrounding communities have had to reduce water use and ration water during the peaks. Other communities are having the same problem Lake Fork Reservoir was tapped by the City of Dallas. Lake Palestine will probably be the next local lake to be tapped by the City of Dallas.

Our increasing population is currently benefiting from previous community and national leadership decisions because of the lakes that we currently have. There have not been any new lakes built in east Texas in over 30 years. Our ground water table and present East Texas Lakes will not be able to keep up with the future water demand. Water is a commodity. Every year that we delay the Lake Columbia Construction, the cost of the lake is escalating at an exponential rate (due to increasing land cost and lake construction cost). We can take advantage of current low inflation rates and bond interest rates if Lake Columbia is constructed now. The good news is there is such solid support that this project is already funded for current construction estimates. All the project needs is a Record of Decision ROD for the final EIS.

There are some individuals that would like to not see any new lakes built. They say that there are adverse affects to bottom-land forest and the wild life that it supports. At the same time these individuals, take for granted when they walk into the kitchen to take a drink of water, water their lawn, take a shower, or flush the toilet. Some of the lake opposition (re: National Audubon Society website) do not live in the North East Texas community.

The soil conservation service in the 1930's passed legislation to construct lakes and reservoirs nationwide because the nation was losing massive amounts of our top soils downstream into our oceans caused by runoff from farming. Their plan was to reduce the soil loss from erosion to preserve farming and agriculture in the US. Lake Columbia was one of the reservoir locations identified by the soil conservation service. It was not constructed along with the other reservoirs due to funding. Most of the lakes and reservoirs that we currently have were constructed post WWII. The Audubon Society was not present at the public meetings and hearing to voice opposition to Lake Columbia dam. But, Audubon Society normally opposes lake projects by saying that lakes and reservoirs impede natural degradation and aggregation in our streams that is required for a healthy ecosystem. This process still occurs whether a lake is installed or not. Yes, lakes may have some affects on the current wildlife inhabitants such as song bird habitat. This is why mitigation is planned downstream of the reservoir and to improve the existing bottom land hardwoods and wetlands and to purchase land and upgrade the Big Thicket. Other wildlife will greatly benefit from Lake Columbia such as the Bald Eagle, Migratory Birds Ducks, Geese, Cranes, Swans, etc.. The lake will provide fresh water for deer, and other wild life. The edge of the lake will be much greater than the edge of the current mud creek. Water conservation should benefit human and wild life inhabitants for many years to come. In addition, a new fishery can be of great benefit to the local area and the economy. Water con

In my mind, constructing Lake Columbia now while state and local funding is still available is the common sense thing to do. Your help and involvement in this matter is appreciated.

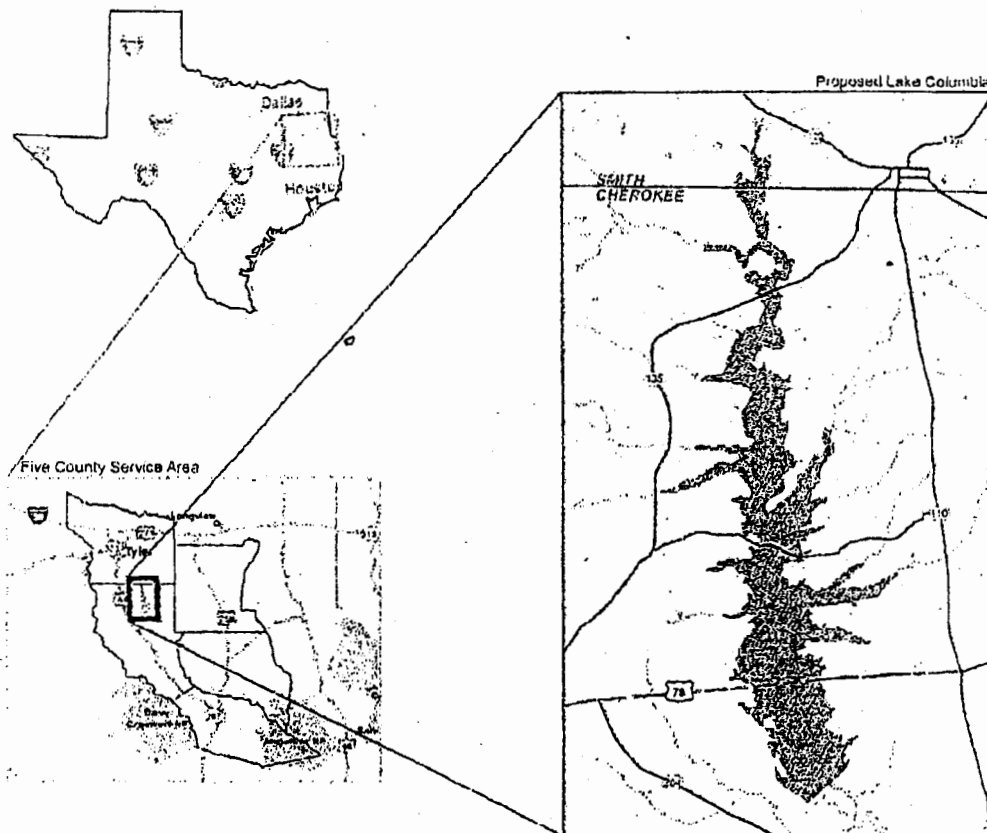
Sincerely:



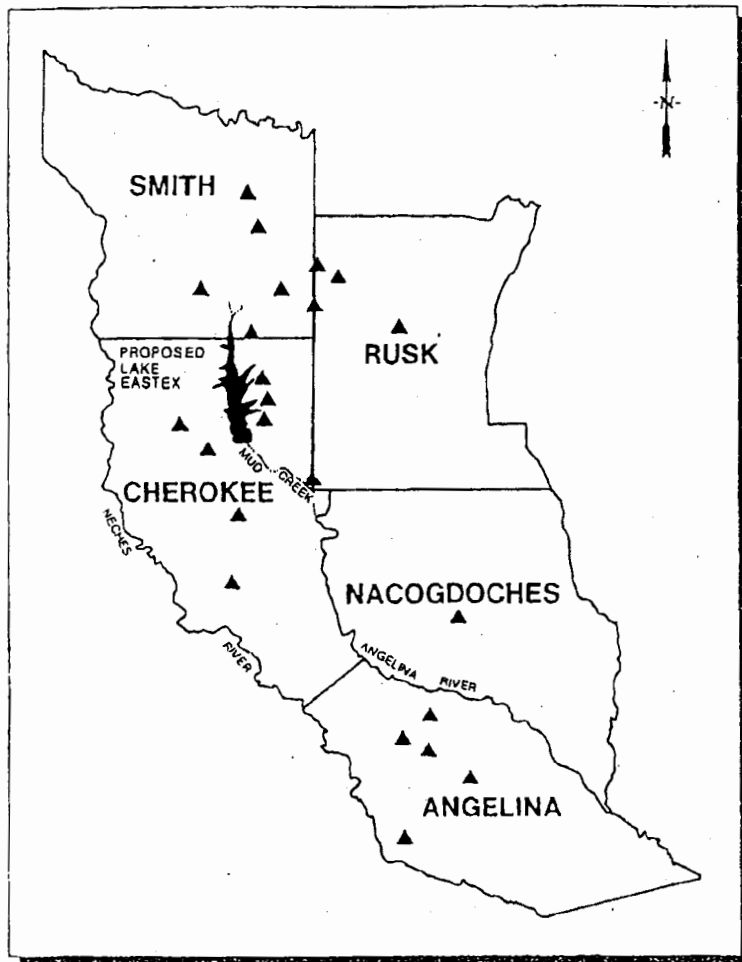


**US Army Corps
of Engineers®**
Fort Worth District

Lake Columbia Regional Water Supply Reservoir Project Draft Environmental Impact Statement Volume 1 - Report January 2010



L A K E E A S T E X REGIONAL WATER SUPPLY PLANNING STUDY



Funding Provided by:

City of Jacksonville
 City of Troup
 City of New London
 City of Arp
 City of Lufkin
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 Angelina Water Supply Corp.
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 Craft-Turney Water Supply Corp.
 Woodlawn Water Supply Corp.
 Redland Water Supply Corp.
 Walnut Grove Water Supply Corp.
 Blackjack Water Supply Corp.
 Temple-Inland Forest Products, Inc.
 The Texas Water Development Board

August 1991

Volume 1
 Engineering and Financial Analysis

Angelina & Neches
 River Authority

Lockwood, Andrews
 & Newnam, Inc.

Contributing Consultants

Mariah Associates, Inc.
 The Frasier Group
 Legg Mason Wood Walker, Inc.
 John D. Stover P.C.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS TX 75202-2733

AUG 3 2010

The Honorable Louie Gohmert
United States House of Representatives
Washington, D.C. 20515

Dear Congressman Gohmert:

Thank you for your letter dated June 16, 2010, to Ms. Joyce K. Frank in the U.S. Environmental Protection Agency's (EPA) Office of Congressional and Intergovernmental Affairs regarding the concerns of your constituent, Mr. *Exple*, about the Lake Columbia Project Draft Environmental Impact Statement (DEIS). Your letter was forwarded to me for reply because the Lake Columbia Project falls within the jurisdiction of EPA Region 6.

EPA Region 6 spent a great deal of time reviewing the DEIS prepared by the Angelina and Neches River Authority with oversight from the U.S. Army Corps of Engineers (USACE), and provided a detailed list of comments with our letter of May 21, 2010. A copy of our comment letter on the Proposed Lake Columbia Project is enclosed. In that letter EPA provided a rating of the project of Environmentally Unsatisfactory – Inadequate or EU-3. This rating was given because the DEIS did not respond to the questions or comments raised in the letter or in the enclosed "Detailed Comments." Therefore, EPA Region 6 has requested that the USACE and the Angelina and Neches River Authority prepare a second DEIS to address the concerns listed in the letter and additional detailed comments. In addition, EPA Region 6 has agreed to be a cooperating agency on the project and offer input as needed. EPA Region 6 will ensure that your concerns are also transmitted to USACE for its information.

I hope this is helpful in addressing your constituent's concerns. If you have any further questions, please contact me at (214) 665-2100, or your staff may contact Ms. Cynthia Fanning of my staff at (214) 665-2142.

Sincerely yours,

Al Arreendariz
Al Arreendariz
Regional Administrator

Enclosure

HON. LOUIE GOHMERT
FIRST DISTRICT, TEXAS

WASHINGTON OFFICE:
511 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-3035
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COMMITTEES:
JUDICIARY

NATURAL RESOURCES

SMALL BUSINESS

REPUBLICAN STUDY COMMITTEE

HOUSE POLICY COMMITTEE

Congress of the United States
House of Representatives
Washington, DC 20515

December 18 in the Year of our Lord 2009

Joyce K. Frank, Acting Associate Administrator for
Congressional and Intergovernmental Relations
Environmental Protection Agency
1200 Pennsylvania Avenue, NW, Room 3426 ARN
Washington, DC 20460

Dear Ms. Frank:

I have correspondence from my constituent *EXPL* which was
recently received in my district office. The information contained therein concerns
matters within the jurisdiction of your agency.

It would be appreciated if you would have your staff look into the matters outlined
in the letter and furnish me with a response specific to the complaint and appropriate
to share with my constituent. Your response should be directed to me at my District
Office at 1121 ESE Loop 323, Suite 206, Tyler, TX 75701, where this case has been
assigned to my Constituent Services Representative Penny Pew. If you have any
questions, please feel free to call Ms. Pew at 866-535-6302 or fax at (903) 561-7110.

Thank you for your time and assistance in resolving this matter as soon as
possible.

Very Truly Yours,

HON. LOUIE GOHMERT
Member of Congress

LG: pp

Enclosures

LONGVIEW OFFICE
101 EAST METHVIN STREET, SUITE 302
LONGVIEW, TX 75801
PHONE: (903) 236-8597

LUFKIN OFFICE
300 EAST SHEPHERD
LUFKIN, TX 75801
PHONE: (936) 632-3180

MARSHALL OFFICE
102 WEST HOUSTON STREET
MARSHALL, TX 75670
PHONE: (903) 938-8386

NACOGDOCHES OFFICE
202 EAST PILAR, SUITE 304
NACOGDOCHES, TX 75961
PHONE: (936) 715-9514

TYLER OFFICE
1121 ESE LOOP 323, SUITE 206
TYLER, TX 75701
PHONE: (903) 561-6349
TOLL FREE: (866) 535-6302

REQUEST FOR CONGRESSIONAL INQUIRY & PRIVACY RELEASE

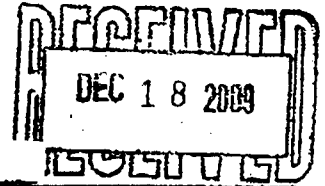
The Privacy Act of 1974 prevents agencies from releasing information about you to anyone without your written consent. Therefore, Congressman Gohmert must have your written authorization before he can initiate an inquiry with a federal agency on your behalf.

TO WHOM IT MAY CONCERN:

I respectfully request and authorize U.S. Representative Louie Gohmert, 1st Congressional District of Texas, or any authorized member of his staff to act on my behalf, and to receive information from the proper officials regarding my issue.

12-16-2009
Date

X
Signed



Name (please print):

Physical Address:

Mailing Address:

City, State, Zip Code:

Country:

Work #:

Cell #

Fax #

Home #:

Email:

SSN:

VA, Alien ID, or other claim #:

Date of Birth:

Country of birth: U.S.A.

Have you opened a case with another office?

If yes, which office?

Federal Agency to which this inquiry pertains:

FCC FTC EPA FAA OPM EEOC NPRC FEMA SSA IRS USPS VA DOL

Medicare Immigration Passport DOD / Military Branch:

Other: NHTSA

Date of initial agency contact:

SSA, VA or Immigration benefit application:

yes/no

Interview date:

Date of App:

Current Status:

(pending, appeal, denied)

Receipt Number:

U.S. Embassy handling your case (if applicable):

Briefly describe the situation (please use back of this form, if needed):

Seeking information & status on "Cash for Clunker" ~~status~~ applications sent on the manual review process. We overruled our application w/ 4 (four) requests for reimbursements under the "Cash for Clunker" program.

Our Company Info: Nehls Chevrolet Olds Cadillac
4801 E. END Blvd. So
MARSHALL TX 75672

Please list any individual(s) other than yourself with whom you would like us to discuss your case:

Please return this completed form to:

CONGRESSMAN LOUIE GOHMERT

1121 ESE Loop 323, Ste.206

Tyler, TX 75701

Phone: 1-866-535-6302

Fax: 903-561-7110

I understand that by requesting the assistance of Congressman Gohmert and his staff I am obligated to provide true and correct information regarding my situation. Failure to disclose all information or any deliberate attempt to mislead Congressman Gohmert or his staff may result in the discontinuance of assistance.

12-16-2009
Date

X
Signature

AL-09-000-9537

Congress of the United States

Washington, DC 20515

June 19, 2009

Via Email and Fax (202-566-1741)

Environmental Protection Agency
EPA Docket Center, Mailcode 61027
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Request for Extension of Comment Period and Additional Public Hearing --
Proposed Endangerment and Cause or Contribute Findings for Greenhouse Gases Under
Section 202(a) of the Clean Air Act
Docket EPA-HQ-OAR-2009-0171

Dear Administrator Jackson:

We respectfully request that the Environmental Protection Agency extend, by 60 days, the comment period for EPA's Proposed Endangerment and Cause or Contribute Findings for Greenhouse Gases under the Clean Air Act ("Proposed Endangerment Findings"), 74 Fed. Reg. 18886 (April 24, 2009).

The recently issued Proposed Endangerment Findings sets the stage for significant new regulation of Texas families, farmers and workers. A 60-day comment period is wholly inadequate to review the thousands of pages of the EPA's proposed findings and technical support documentation, and to develop comments substantiated with technical data. Even if certain scientific data upon which EPA relies has been previously released in the public domain, given the complexity and scope of the EPA proposed findings—including the potential regulatory and economic impacts, it is crucial that adequate time be provided to ensure that states, stakeholders and the public can prepare and submit comments. Ultimately, the regulation could impact over 24.3 million people in the state of Texas who use carbon related energy every day, which is why we believe additional time must be given to allow state environmental regulators, affected parties and the public to review the proposed new findings.

Texas boasts a healthy economy dependent upon the continued growth of manufacturing, energy-related industries, and farming and ranching, all of which could be impacted by this regulation. Much of what the state produces is exported and consumed daily across the United States—keeping our nation running. For example, Texas refines more than one quarter of the nation's gasoline; produces twenty-five percent of the country's natural gas supply; accounts for

roughly sixty percent of the chemicals manufactured in the United States; and farmers and ranchers have made Texas a leading agriculture state in the nation with over 247,000 farms statewide. We also have more Fortune 500 companies than any other state in the nation. The proposed findings and the potential future regulation of greenhouse gases is a matter of great importance to our state.

We also respectfully request that EPA hold at least one additional hearing in Houston, TX because any future regulation of greenhouse gases will directly impact the State of Texas and its citizens.

Texas is a global leader in the energy industry with much of the activity centered in the Greater Houston area. In particular, the regulation could have significant impact on the Texas energy industry which employs approximately 375,000 workers in the state with over \$35 billion in total wages in 2006. The EPA has held only two public hearings on the Proposed Endangerment Findings; one in Virginia, and one in Washington State. Neither the Midwest nor the South is represented in either of these hearings. We believe it is important to hold additional hearings because of the disparate impacts greenhouse gas regulations could have on different regions of the country.

Thank you for your consideration of these requests. We look forward to your response.

Sincerely,

Kay Bailey Hutchison

Joe Barton

Ralph M. Hall

Ronnie Lehman

Pete Olson

Steve Sessions

Sam Johnson

John Culberson

①
M/M

Ron Paul

Jim Hensarling

Mike Lee

John Cornyn

Henry Cuellar

Paul C. Ryan

Kay Granger

Lamar Smith

Mark Taper

Randy Neugebauer

John R. Carter

Kevin T. Smith

B. Market

Michael T. McCaul

Chet Edwards

List of signatures:

Senator Kay Bailey Hutchison

Rep. Joe Barton

Rep. Ralph Hall

Rep. Louie Gohmert

Rep. Pete Olson

Rep. Pete Sessions

Rep. Sam Johnson

Rep. John Culberson

Rep. Ted Poe

Rep. Ron Paul

Rep. Jeb Hensarling

Rep. Mike Conaway

Senator John Cornyn

Rep. Henry Cuellar

Rep. Michael C. Burgess

Rep. Kay Granger

Rep. Lamar Smith

Rep. Mac Thornberry

Rep. Randy Neugebauer

Rep. John R. Carter

Rep. Kevin Brady

Rep. Kenny Marchant

Rep. Michael T. McCaul

Rep. Chet Edwards



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 10 2009

OFFICE OF
AIR AND RADIATION

The Honorable Louie Gohmert
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Gohmert:

Thank you for your letter dated June 19, 2009 to Administrator Jackson, co-signed by 23 of your colleagues, in which you requested a 60-day extension of the comment period for *EPA's Proposed Endangerment and Cause or Contribute Findings for Greenhouse Gases* beyond the deadline of June 23, 2009. You based your request on the extensive rulemaking record for the proposal and concern for the business community. The Administrator asked that I respond on her behalf.

I would like to reiterate what Administrator Jackson stated on April 17, the day she signed and formally proposed these findings. The proposal was developed in response to the Supreme Court decision in which the Court found that greenhouse gases are air pollutants under the Clean Air Act.

EPA's proposed findings are based on rigorous, peer-reviewed scientific analyses of six gases that have been the subject of intensive analysis by scientists in the United States and around the world. However, the proposed findings do not include any proposed regulations.

I assure you that EPA will conduct an appropriate process and consider stakeholder input as it evaluates regulatory programs to reduce greenhouse gases. Furthermore, Administrator Jackson has repeatedly indicated her preference for comprehensive legislation to address this issue and create the framework for a clean energy economy.

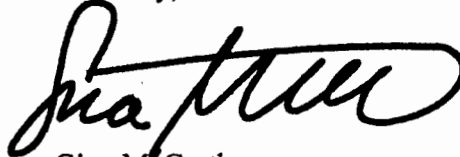
EPA recognizes that the proposed findings and the associated Technical Support Document, like any proposed rulemaking, take time to review. However, a very large part of the supporting information and analyses for the proposed findings was previously released on July 11, 2008, as part of the *Advance Notice of Proposed Rulemaking: Regulating Greenhouse Gas Emissions under the Clean Air Act*. As a result, a large majority of the information and analyses supporting the proposed findings has been in the public domain for almost one year. Furthermore, in proposing the findings, the Administrator relied heavily upon the major conclusions from recent assessments by the U.S. Climate Change Science Program and the Intergovernmental Panel on Climate Change, which incorporated public review processes and have been publicly available for some time now.

EPA recognizes the importance of this proposed action for Members of Congress and the public. However, EPA decided not to extend the formal comment period beyond June 23, 2009, as noted in the response to a similar request from Congressman Darrell Issa signed by Administrator Jackson on June 17, 2009 and posted to the rulemaking docket EPA-HQ-OAR-2009-0171 and EPA's website on June 18, 2009 (<http://www.epa.gov/climatechange/endangerment.html>). EPA believes that the 60-day comment period provided adequate opportunity to review and comment on the proposed findings.

We have noted your request that an additional public hearing be held in Houston, Texas; however, the Agency will not be holding additional public hearings on the proposed findings. Two public hearings have already been held, one in Arlington, Virginia, on May 18, 2009, and one in Seattle, Washington, on May 21, 2009. In addition, as noted in the Federal Register notice, written statements and supporting information submitted during the comment period will be considered with the same weight as any information presented at the public hearings. Furthermore, we will continue to consider comments received after the close of the comment period, to the extent practicable.

Again, thank you for your letter. If you have further questions, please contact me, or your staff may call Cheryl Mackay, in EPA's Office of Congressional and Intergovernmental Relations, at 202-564-2023.

Sincerely,

A handwritten signature in black ink, appearing to read "Gina McCarthy", with a stylized, flowing script.

Gina McCarthy
Assistant Administrator

AL-12-001-2897

Congress of the United States
House of Representatives

Washington, DC 20515

August 1, 2012

Administrator Lisa P. Jackson
U.S. Environmental Protection Agency
Room 300, Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Jackson:

As serious drought conditions continue moving across nearly two-thirds of the country, we are at a critical juncture where federal policy meets real world realities. Because of these extreme weather conditions, corn prices are spiking and some analysts are predicting that the U.S. may experience a corn shortage this summer. Relief from the Renewable Fuels Standard (RFS) is extremely urgent because another short corn crop would be devastating to the animal agriculture industry, food manufacturers, foodservice providers, as well as to consumers. We urge you to adjust the RFS mandate for 2012 to account for the anticipated severe shortage in corn.

When Congress enacted the expanded RFS in the Energy Independence and Security Act of 2007 (EISA), the structure was complex. Given the 15 year statutory schedule imposed by the law -- including the specification of four different fuel mandates, each with a separate schedule -- Congress also wanted to ensure that certain "safety valves" for the RFS would be available. Thus, EISA retained and expanded Clean Air Act (CAA) section 211(o) (7). Among other provisions, CAA section 211(o)(7) allows the Administrator of the EPA to reduce the required volume of renewable fuel in any year based on severe harm to the economy or environment of a state, a region or the United States, or in the event of inadequate domestic supply of renewable fuel.

The waiver provisions in CAA section 211(o) (7) are an important part of Congress' intended implementation of the RFS. They help ensure that the domestic economy and environment are protected as we ramp up production and use of renewable fuels and move to broader use of advanced biofuels. Clearly, the Congress in 2007 anticipated that unforeseen circumstances would require the Environmental Protection Agency (EPA) to exercise flexibility with the RFS. We believe that the current weather situation in the United States calls for exactly the kind of flexibility that was envisioned.

One of the nation's worst droughts in fifty years has hit the Midwest especially hard at a very sensitive time for the U.S. grain crops. Earlier this month, the United States Department of Agriculture in its monthly World Agriculture Supply & Demand Estimates (WASDE), announced the largest decline in month-to-month potential yield for corn in its history.

Currently, only about 31 percent of the corn crop is in "good" or "excellent" condition, representing record lows. While improved weather over the coming weeks may increase yields, much of the damage has already been done. There is not time to replant or find new corn stocks, making it necessary for the government to manage this severe situation.

As a result of these deteriorating conditions, corn prices have risen dramatically over the past few weeks and are likely to remain at record highs. This means literally billions of dollars in increased costs for livestock and poultry producers, and food manufacturers. These dramatic increases put food processing jobs at risk and could cost many family farmers their livelihoods. It is also worth noting that high corn prices have forced some ethanol producers to idle or shutter their plants, costing jobs. Although consumers may not feel the impacts of these increased costs right away, the inevitable result will be more expensive food for Americans and consumers around the world.

As you are aware, U.S. corn prices have consistently risen, and the corn market has been increasingly volatile, since the expansion of the RFS in 2007. This reflects the reality that approximately 40 percent of the corn crop now goes into ethanol production, a dramatic rise since the first ethanol mandates were put into place in 2005. Ethanol now consumes more corn than animal agriculture, a fact directly attributable to the federal mandate. While the government cannot control the weather, it fortunately has one tool still available that can directly impact corn demand. By adjusting the normally rigid Renewable Fuel Standard mandate down to align with current market conditions, the federal government can help avoid a dangerous economic situation because of the prolonged record high cost of corn.

We therefore urge the EPA to consider a fair and meaningful nationwide adjustment to the Renewable Fuels Standard. Prompt action by the EPA can help to ease short supply concerns, literally save jobs across many U.S. industries, and keep families fed. We strongly urge you to exercise your authority and take the necessary steps to protect American consumers and the economy. Thank you for your immediate consideration of this request.

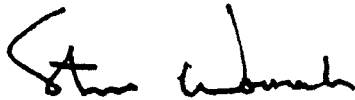
Sincerely,



Bob Goodlatte
Member of Congress



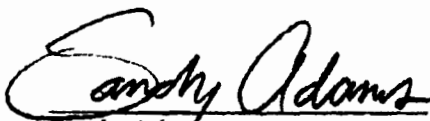
Mike McIntyre
Member of Congress

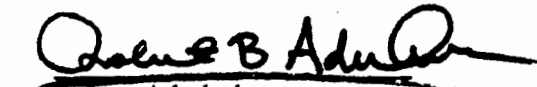


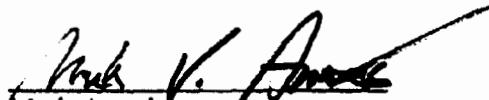
Steve Womack
Member of Congress



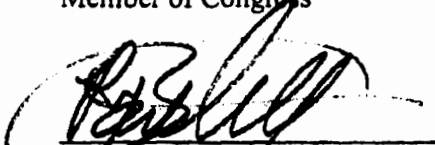
Jim Matheson
Member of Congress



Sandy Adams
Member of Congress

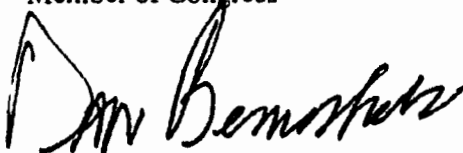

Robert Aderholt
Member of Congress

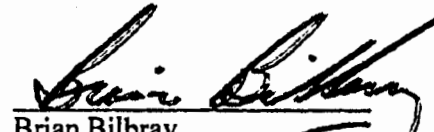

Mark Amodei
Member of Congress



John Barrow
Member of Congress

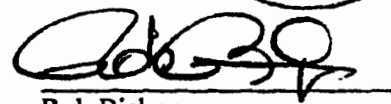

Roscoe Bartlett
Member of Congress

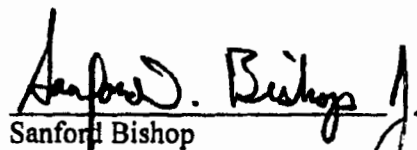

Joe Barton
Member of Congress

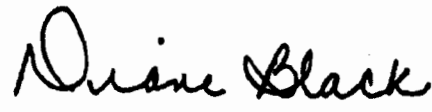

Dan Benishek
Member of Congress



Brian Bilbray
Member of Congress



Gus Bilirakis
Member of Congress

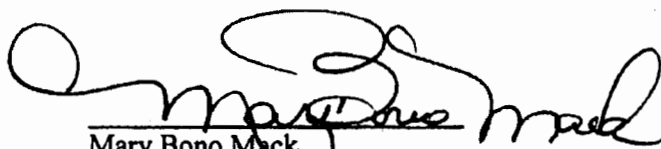

Rob Bishop
Member of Congress



Sanford Bishop
Member of Congress

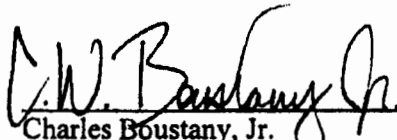

Diane Black
Member of Congress

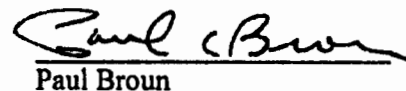

Marsha Blackburn
Member of Congress

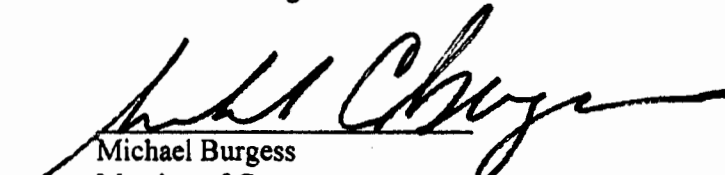

Jo Bonner
Member of Congress

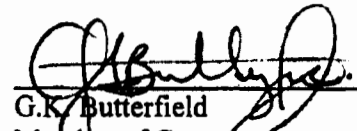

Mary Bono Mack
Member of Congress

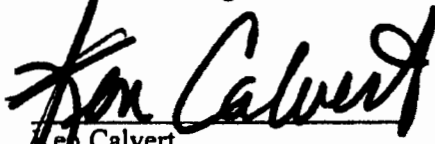

Dan Boren
Member of Congress



Charles Boustany, Jr.
Member of Congress


Paul Broun
Member of Congress

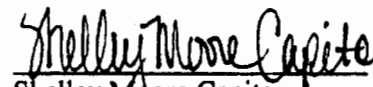

Michael Burgess
Member of Congress

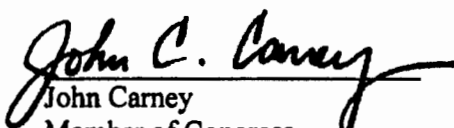

G.K. Butterfield
Member of Congress

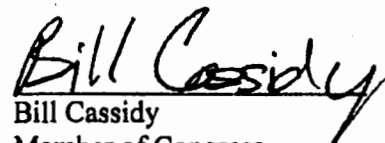

Ken Calvert
Member of Congress



John Campbell
Member of Congress



Francisco Canseco
Member of Congress

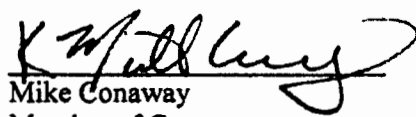

Shelley Moore Capito
Member of Congress

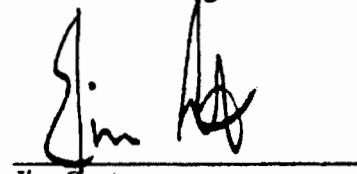

John Carney
Member of Congress

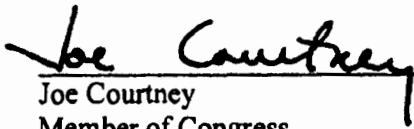

Bill Cassidy
Member of Congress



Jason Chaffetz
Member of Congress

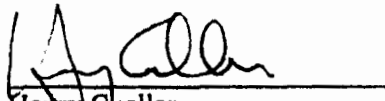

Tom Cole
Member of Congress

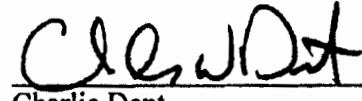

Mike Conaway
Member of Congress



Jim Costa
Member of Congress


Joe Courtney
Member of Congress

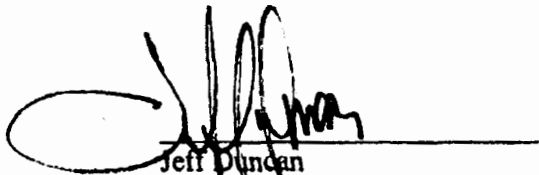

Rick Crawford
Member of Congress

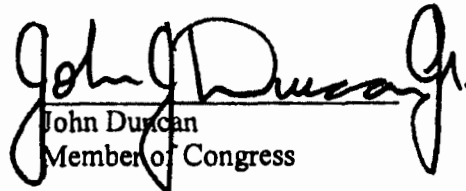

Henry Cuellar
Member of Congress



Charlie Dent
Member of Congress

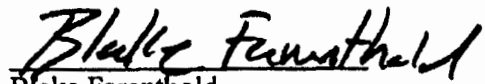

Peter Defazio
Member of Congress


Mario Diaz-Balart
Member of Congress

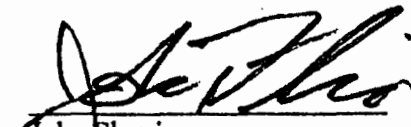

Jeff Duncan
Member of Congress

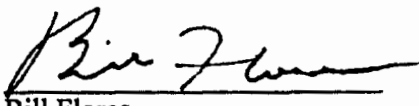

John Duncan
Member of Congress

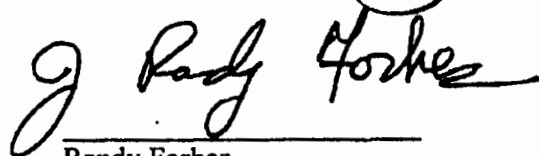

Renee Ellmers
Member of Congress

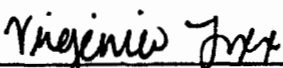

Blake Farenthold
Member of Congress


Jeff Flake
Member of Congress


John Fleming
Member of Congress


Bill Flores
Member of Congress



Randy Forbes
Member of Congress



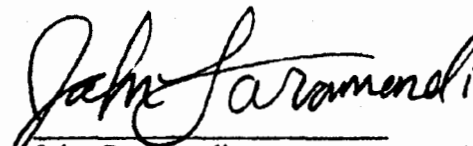
Virginia Foxx
Member of Congress



Trent Franks
Member of Congress



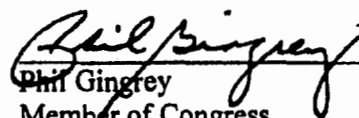
Elton Gallegly
Member of Congress



John Garamendi
Member of Congress



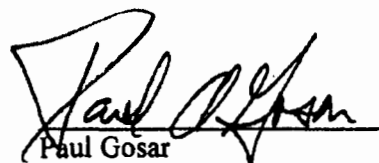
Chris Gibson
Member of Congress



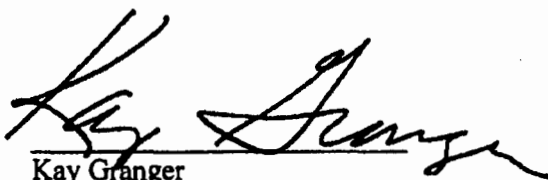
Phil Gingrey
Member of Congress



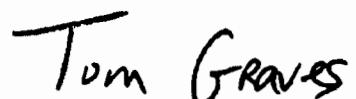
Louie Gohmert
Member of Congress



Paul Gosar
Member of Congress



Kay Granger
Member of Congress



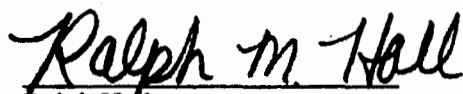
Tom Graves
Member of Congress



Tim Griffin
Member of Congress



H. Morgan Griffith
Member of Congress



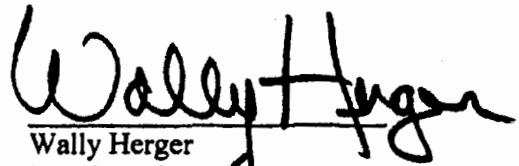
Ralph Hall
Member of Congress



Gregg Harper
Member of Congress



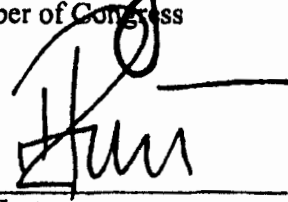
Andy Harris
Member of Congress



Wally Herger
Member of Congress



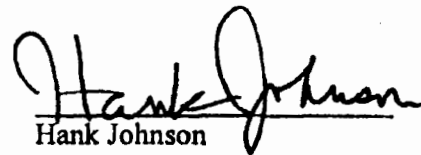
Tim Holden
Member of Congress



Rob Hurt
Member of Congress



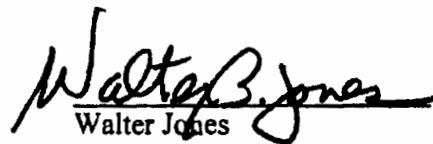
Darrell Issa
Member of Congress



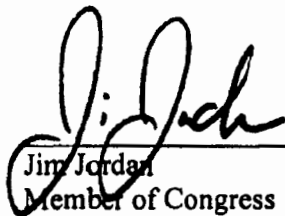
Hank Johnson
Member of Congress



Sam Johnson
Member of Congress



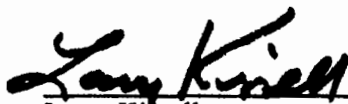
Walter Jones
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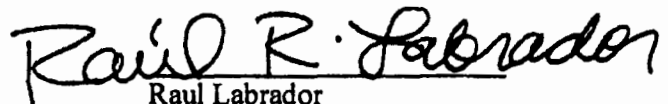
Jim Jordan
Member of Congress



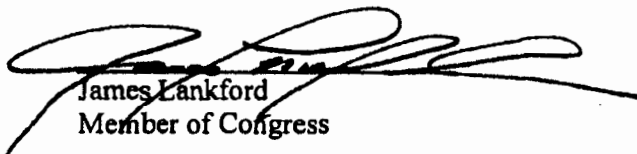
Jack Kingston
Member of Congress




Larry Kissell
Member of Congress



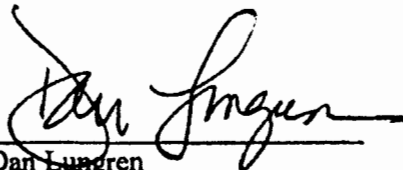
Raul Labrador
Member of Congress




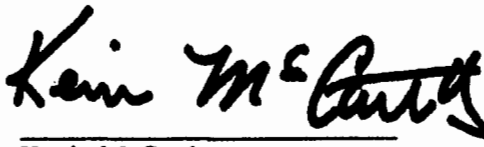
James Lankford
Member of Congress





Billy Long
Member of Congress

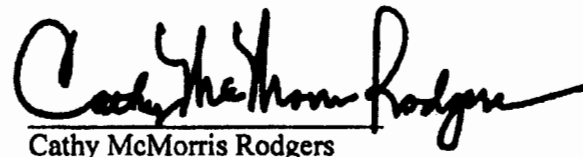

Dan Lungren
Member of Congress



Tom Marino
Member of Congress

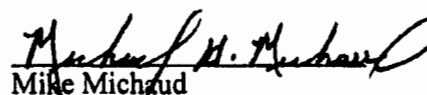

Kevin McCarthy
Member of Congress

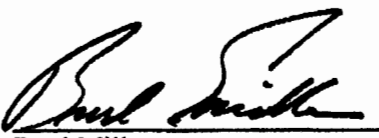

Tom McClintock
Member of Congress

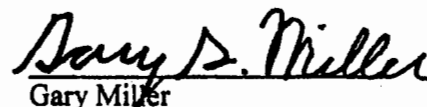

Buck McKeon
Member of Congress

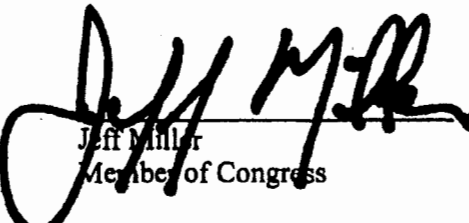

Cathy McMorris Rodgers
Member of Congress

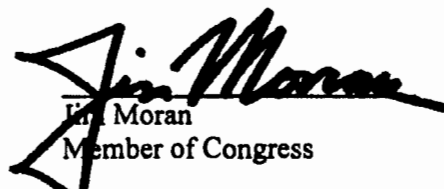

Pat Meehan
Member of Congress

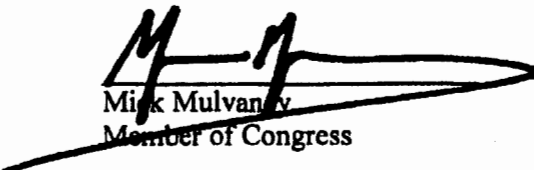

Mike Michaud
Member of Congress

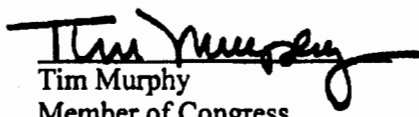

Brad Miller
Member of Congress



Gary Miller
Member of Congress



Jeff Miller
Member of Congress



Jim Moran
Member of Congress



Mick Mulvaney
Member of Congress



Tim Murphy
Member of Congress



Sue Myrick
Member of Congress

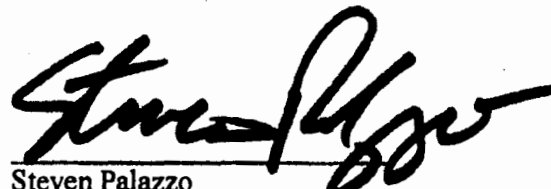

Randy Neugebauer
Member of Congress



Devin Nunes
Member of Congress



Alan Nunnelee
Member of Congress

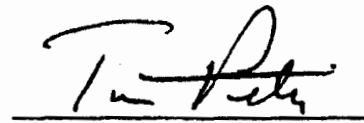

Pete Olson
Member of Congress

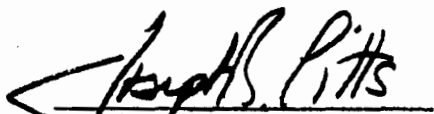

Bill Owens
Member of Congress



Steven Palazzo
Member of Congress

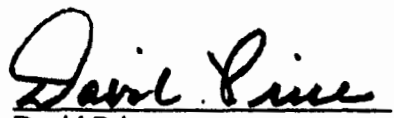

Ron Paul
Member of Congress

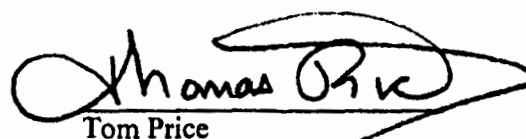

Steve Pearce
Member of Congress


Tom Petri
Member of Congress


Joe Pitts
Member of Congress

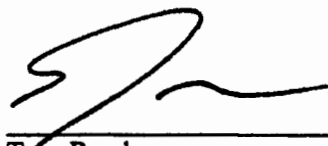

Todd Platts
Member of Congress


David Price
Member of Congress

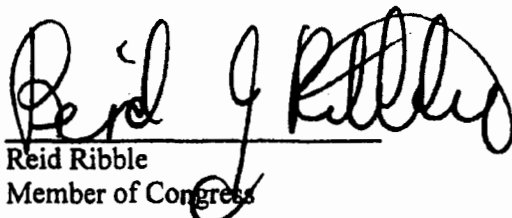

Tom Price
Member of Congress



Ted Poe
Member of Congress



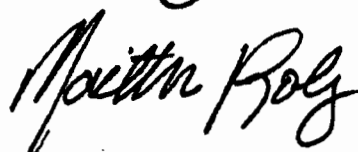
Tom Reed
Member of Congress



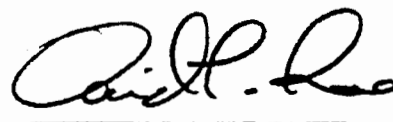
Reid Ribble
Member of Congress



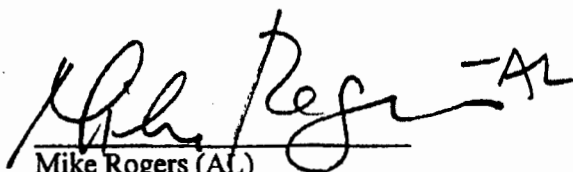
Scott Rigell
Member of Congress



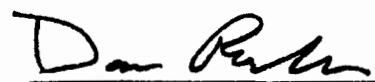
Martha Roby
Member of Congress



Phil Roe
Member of Congress



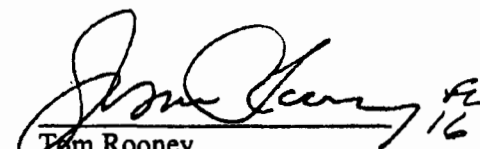
Mike Rogers (AL)
Member of Congress



Dana Rohrabacher
Member of Congress



Todd Rokita
Member of Congress



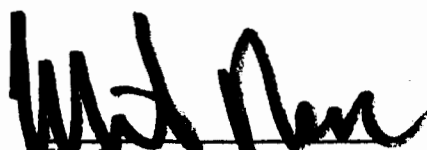
Tom Rooney
Member of Congress



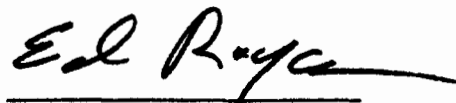
Peter Roskam
Member of Congress



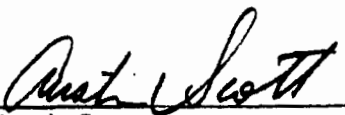
Dennis Ross
Member of Congress

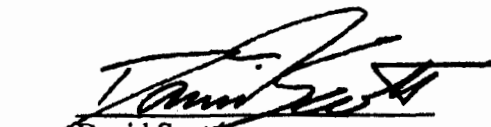


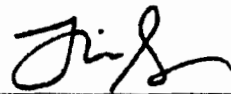
Mike Ross
Member of Congress

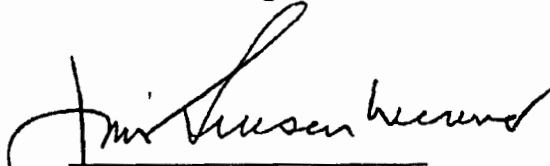


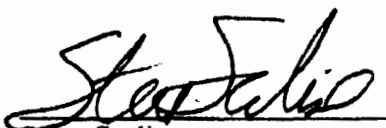
Ed Royce
Member of Congress

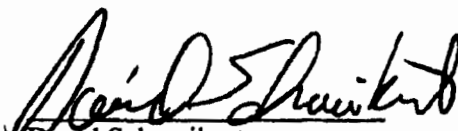

Austin Scott
Member of Congress

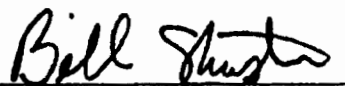

David Scott
Member of Congress

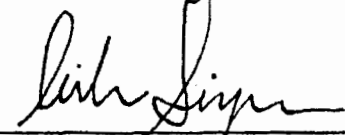

Tim Scott
Member of Congress

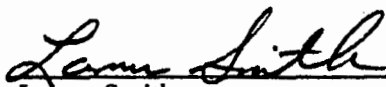

James Sensenbrenner
Member of Congress

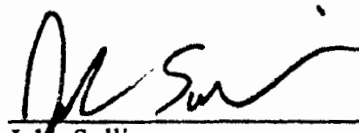

Steve Scalise
Member of Congress

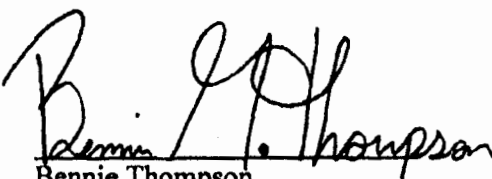

David Schweikert
Member of Congress

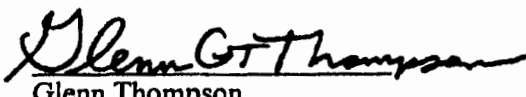

Bill Shuster
Member of Congress

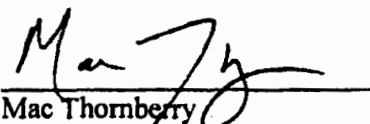

Mike Simpson
Member of Congress

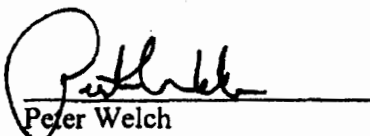

Lamar Smith
Member of Congress

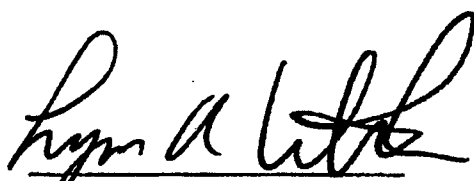

John Sullivan
Member of Congress


Bennie Thompson
Member of Congress


Glenn Thompson
Member of Congress


Mac Thornberry
Member of Congress


Peter Welch
Member of Congress



Lynn Westmoreland
Member of Congress



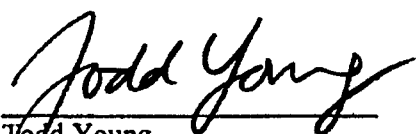
Joe Wilson
Member of Congress



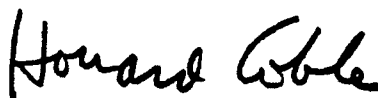
Robert Wieman
Member of Congress



Rob Woodall
Member of Congress



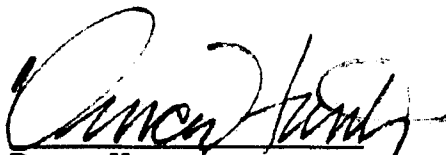
Todd Young
Member of Congress



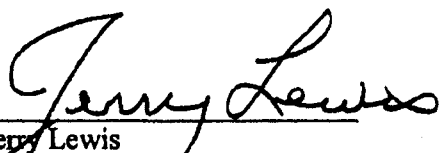
Howard Coble
Member of Congress



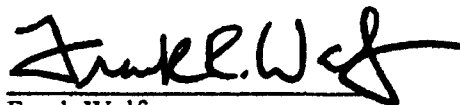
Chellie Pingree
Member of Congress



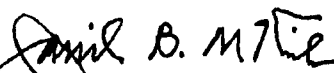
Duncan Hunter
Member of Congress



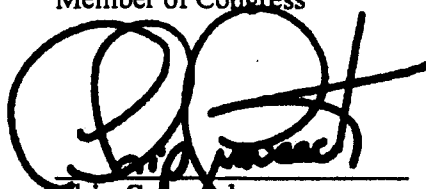
Jerry Lewis
Member of Congress



Frank Wolf
Member of Congress



David McKinley
Member of Congress



Chip Cravaak
Member of Congress

X McHENRY (N-10)

 TN-4

Ch. 1. F. H. TN-3

~~Zeigler~~ TX-08

Loretta Sanchez

John R. Carter

Marcia Z. Judge

Betty Scott

Mo Brooks

Willie Mae

Frank A. Lombardo

Joe Brown



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 31 2013

OFFICE OF
AIR AND RADIATION

The Honorable Louie Gohmert
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Gohmert:

Thank you for your letter dated August 1, 2012, co-signed by 152 of your colleagues to U.S. Environmental Protection Agency Administrator Lisa P. Jackson, regarding a waiver of volume requirements under the Renewable Fuels Standard (RFS) program. The Administrator asked me to respond on her behalf.

Governors from several states and a number of organizations cited the drought conditions affecting much of the country in their request for a waiver of the national volume requirements for the RFS pursuant to the Clean Air Act. After extensive analysis, review of thousands of comments, and consultation with the Department of Agriculture (USDA) and the Department of Energy (DOE), the EPA denied the requests for a waiver in a decision published in the *Federal Register* on November 27, 2012.

The EPA recognizes that last year's drought has created significant hardships in many sectors of the economy, particularly for livestock producers. However, the agency's extensive analysis makes clear that Congressional requirements for a waiver have not been met and that waiving the RFS would have little, if any, impact on ethanol demand or energy prices over the time period analyzed.

The *Federal Register* notice contains a detailed description of the analysis the EPA conducted in conjunction with DOE and USDA, along with a discussion of relevant comments we received through our public comment process.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Patricia Haman in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2806.

Sincerely,

A handwritten signature in black ink, which appears to read "Gina McCarthy", is positioned above the printed name.

Gina McCarthy
Assistant Administrator

AL-12-001-9720

Congress of the United States
Washington, DC 20515

November 21, 2012

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Jackson,

We are concerned about the Environmental Protection Agency's (EPA) proposed rule to reduce National Ambient Air Quality Standards (NAAQS) for fine particulate matter (PM_{2.5}). This proposed rule would impact our states and local communities by imposing burdensome new restrictions on economic growth -- just at the time these areas are struggling to attract much needed new jobs. The Agency is proceeding in an expedited fashion despite stakeholder comments stating that these regulations will impose an undue burden and despite telling a federal court last May that the Agency would need until August 2013 to review those comments and finalize the PM_{2.5} rule.

EPA's proposal to lower PM_{2.5} NAAQS comes as counties and states are showing tremendous success in implementing the current standards. According to EPA's own analysis, PM_{2.5} emissions have been cut in half over the last ten years, dropping by 1.1 million tons per year. Air quality is also improving as average PM_{2.5} concentrations have been reduced by 27% over that same period. While certain states continue their work to attain the current standards, they all share the achievement of cleaner air. EPA's proposal to further reduce PM_{2.5} NAAQS unfairly moves the goalposts in mid-game, and puts many communities at risk of being stigmatized as non-attainment.

Reducing PM_{2.5} NAAQS from the current 15 µg/m³ to EPA's proposed range of 13 to 12 µg/m³ will have wide-ranging impact across the country. EPA data indicates numerous counties meeting the current standard will fail this new more stringent range. Far more counties face non-attainment should EPA select 11 µg/m³, an outcome for which Agency accepted comments. When accounting for EPA designation and implementation policies, the proposed rule puts hundreds of counties at risk of non-attainment.

Counties designated as non-attainment areas face immediate, substantial, and long-lasting economic consequences. Existing facilities are often required to install new, expensive controls. Local infrastructure is impacted as federal funds for transportation projects are withheld unless those projects can be shown not to increase PM_{2.5} emissions. New businesses seeking to build or upgrade operations must install the most effective PM_{2.5} emissions controls, without consideration of cost, and are subject to enhanced EPA oversight. In addition, businesses must

The Honorable Lisa Jackson
November 21, 2012
Page 2

offset new PM_{2.5} emissions by paying for emissions reductions at existing facilities. In the absence of affordable offsets, new projects cannot proceed.

Moreover, restrictions do not end once non-attainment areas achieve the PM_{2.5} NAAQS. Instead, these counties must petition EPA to be redesignated to attainment by submitting a complex maintenance plan listing numerous mandatory and long-lasting measures. The sum of all these non-attainment regulatory burdens is lost business investment in local communities, reducing tax revenues supporting local schools as well as first responders and effectively hamstringing any efforts to overcome present fiscal hardships.

In light of the substantial economic impact involved, and in keeping with President Obama's Executive Order 13563, we believe that the Agency should not force stringent new NAAQS too quickly. Doing so will hurt counties and states - many still implementing the current PM_{2.5} NAAQS - struggling to move out of challenging economic conditions. Rather, EPA should maintain the current standards, and work with communities to continue the long-term trend of PM_{2.5} emissions reductions.

Sincerely,

Ron E. Jatta

John T. Sumner

Gregory R. ...

David ...

John C. ...

Joan Altmore

Bob Mikh

Bill Johnson

And B. M. Tie

John G. B. B.

Jeff Arvan

Bill Shurt

Tom Murray

Frank Rogers

Shelley Moore Capito

Brett Guthrie

JP

Marsha Blackburn

Steve Myrick

Coold Ricketts

Lyn A. Whitcomb

Alan Emerson

Bob Gallatto

Deane B. Adair

Michelle Bachmann

Loy Kinell

Phil Felt

Bill Huizenga

W. Mark Galt

Jim L.

Steve King

M/SF

Bob Duff

Galt Long

John Kline

Don Young

Rick Crawford

Rene Lehman

Samuel D. Bolog

Jack Little

Pat Tiboni

Pete Olson

Jim Matheson

James Rader

Tom Felt

Peter Proskam

Reid F. Hille

List of Signatures

1. Rep. Bob Latta
2. Rep. John Barrow
3. Rep. James Lankford
4. Rep. Andy Harris
5. Rep. Steve Austria
6. Rep. Jason Altmire
7. Rep. Bob Gibbs
8. Rep. Bill Johnson
9. Rep. David McKinley
10. Rep. Brett Guthrie
11. Rep. Rob Bishop
12. Rep. James Renacci
13. Rep. Jeff Duncan
14. Rep. Marsha Blackburn
15. Rep. Bill Shuster
16. Rep. Sue Myrick
17. Rep. Tim Murphy
18. Rep. Todd Rokita
19. Rep. Harold Rogers
20. Rep. Lynn Westmoreland
21. Rep. Shelley Moore Capito
22. Rep. Jo Ann Emerson
23. Rep. Bob Goodlatte
24. Rep. Robert Aderholt
25. Rep. Michele Bachmann
26. Rep. Larry Kissell
27. Rep. Bill Flores
28. Rep. Bill Huizenga
29. Rep. H. Morgan Griffith
30. Rep. Tim Scott
31. Rep. Steve King
32. Rep. Mark Critz
33. Rep. Steve Stivers
34. Rep. Billy Long
35. Rep. John Kline
36. Rep. Don Young
37. Rep. Rick Crawford
38. Rep. Jim Matheson
39. Rep. Louie Gohmert

40. Rep. Spencer Bachus
41. Rep. Sanford D. Bishop, Jr.
42. Rep. Tom Petri
43. Rep. Joseph Pitts
44. Rep. Peter Roskam
45. Rep. Pat Tiberi
46. Rep. Reid Ribble
47. Rep. Pete Olson



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FEB 14 2013

OFFICE OF
AIR AND RADIATION

The Honorable Louie Gohmert
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Gohmert:

Thank you for your letter of November 21, 2012, co-signed by 46 of your colleagues, to U.S. Environmental Protection Agency Administrator Lisa P. Jackson, regarding the agency's review of the National Ambient Air Quality Standards (NAAQS) for particulate matter. The Administrator asked me to respond on her behalf.

On December 14, 2012, the EPA took important steps to protect the health of Americans from fine particle pollution by strengthening the primary annual standard for fine particles (PM_{2.5}) to 12.0 micrograms per cubic meter (µg/m³) and retaining the 24-hour fine particle standard of 35 µg/m³. The agency also retained the existing standards for coarse particle pollution (PM₁₀). The strengthened annual PM_{2.5} standard will provide increased public health protection from a range of serious adverse impacts, including premature death and harmful effects on the cardiovascular system, and decrease hospital admissions and emergency department visits for heart attacks, strokes and asthma attacks.

Importantly, emissions reductions from EPA, state and local rules already on the books will help 99 percent of counties with monitors meet the revised PM_{2.5} standards without additional emissions reductions. These rules include clean diesel rules for vehicles and fuels, and rules to reduce pollution from power plants, locomotives and marine vessels, among others. The EPA estimates that meeting the new fine particle standard will provide health benefits worth an estimated \$4 billion to \$9.1 billion per year in 2020 – a return of \$12 to \$171 for every dollar invested in pollution reduction.

Your comments and recommendations on the proposed rule were included in the public docket for this rulemaking and were considered, along with other public comments on the proposal, in the final decision-making process.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Cheryl Mackay in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2023.

Sincerely,

A handwritten signature in black ink, which appears to read "Gina McCarthy", is written over the typed name.

Gina McCarthy
Assistant Administrator

AL-11-001-3062

Congress of the United States
Washington, DC 20515

July 27, 2011

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington, DC 20460

Dear Administrator Jackson,

We are writing you to express our concerns with the implementation of the Oil Spill Prevention, Control and Countermeasure (SPCC) rule for farmers and ranchers.

As you know, the SPCC regulations would apply to any facility with an above-ground oil storage capacity of at least 1,320 gallons in containers holding more than 55 gallons. We are concerned with current circumstances that we feel are not conducive to effective compliance, or achieving the goal of SPCC regulations.

In order to comply with these guidelines, many farmers and ranchers will need to undertake expensive improvements in infrastructure and must hire engineers to meet specific criteria. At this time, most agriculture producers are hard-pressed to procure the services of Professional Engineers (PEs). Many producers have reported that they are unable to find PEs willing to work on farms. Additionally, some states do not have a single qualified PE registered to provide SPCC consultation. The scarce availability of engineers calls into question the viability of achieving the goal of full compliance by November 2011.

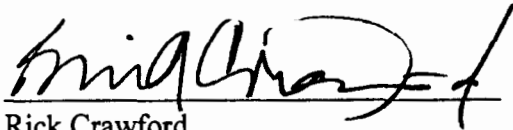
As you have travelled to farms and rural communities in the Mid-south and Midwest, you have seen first-hand the hardship facing farmers due to the devastation wrought by floods and severe weather. Farmers and ranchers are dealing with crop losses to the tune of billions of dollars and have been working around-the-clock to clean up the damage and preserve what little crops they have left. At this time, it is simply not within the means of many farmers to deal with losses while allocating time and money towards complying with SPCC regulations.

Recently, the EPA and the U.S. Army Corps of Engineers released draft guidance that drastically expands the agencies' authority in terms of the waters and wetlands considered "adjacent" to jurisdictional "waters of the United States" under the Clean Water Act. Many farmers and ranchers are worried that this guidance will force compliance with the SPCC, without the necessary time to do so. We believe that producers want to be in compliance, but the delay of assistance documentation has severely constrained their ability to make the necessary preparations.

In addition, the EPA has yet to provide clarification regarding who is responsible for maintaining the plan, as many farms are operated by those who do not own the land. Many farmers and ranchers are also unsure of how the EPA will enforce the rule.

Before moving forward, we ask that you ensure a process free of confusion and overly burdensome rules that might disincentivize SPCC compliance. By nature of occupation, family farmers are already careful stewards of land and water. No one has more at stake than those who work on the ground from which they derive their livelihood. We respectfully request that you reconsider the SPCC implementation deadline, continue to dialogue with the agriculture community and its stakeholders, and ensure that the rule is not overly burdensome or confusing. We believe this would help avoid unintended consequences. We appreciate your attention to this important matter.

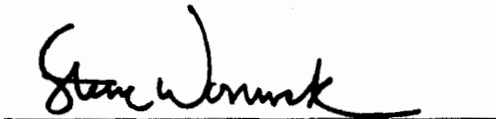
Sincerely,



Rick Crawford
Member of Congress



Stephen Fincher
Member of Congress



Steve Womack
Member of Congress



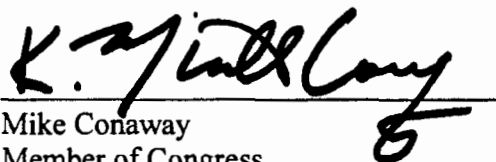
John Carter
Member of Congress



Scott DesJarlais
Member of Congress



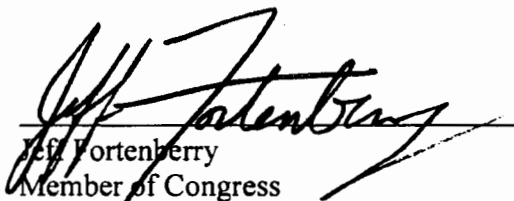
Steven Palazzo
Member of Congress



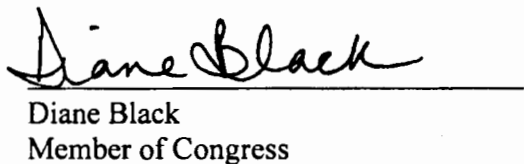
Mike Conaway
Member of Congress

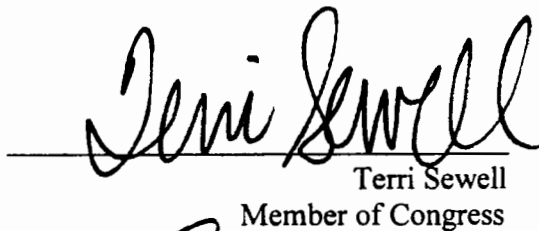


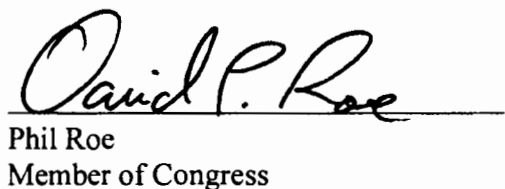
Brett Guthrie
Member of Congress

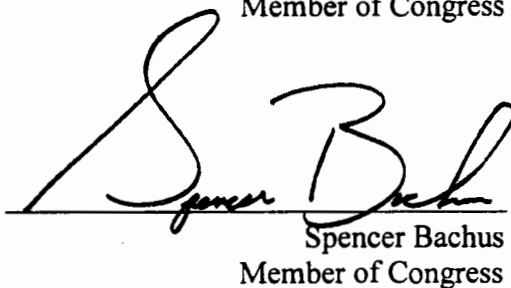

Jeff Fortenberry
Member of Congress

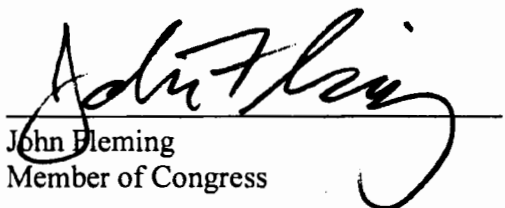

Walter Jones
Member of Congress

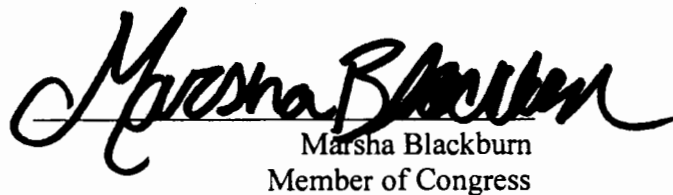

Diane Black
Member of Congress

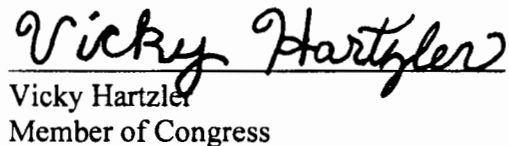

Terri Sewell
Member of Congress


Phil Roe
Member of Congress


Spencer Bachus
Member of Congress

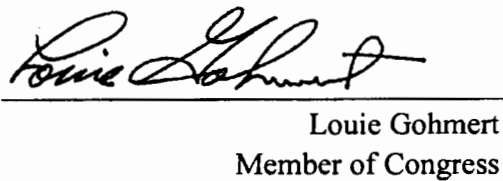

John Fleming
Member of Congress

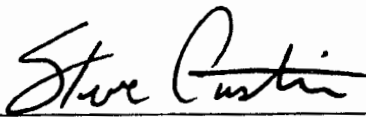

Marsha Blackburn
Member of Congress


Vicky Hartzler
Member of Congress

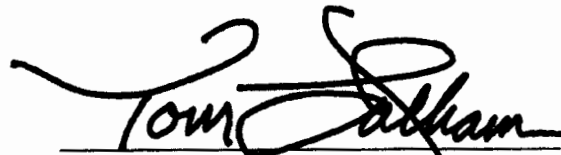

Cory Gardner
Member of Congress


Steve King
Member of Congress

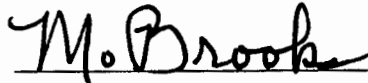

Louie Gohmert
Member of Congress



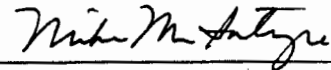
Steve Austria
Member of Congress



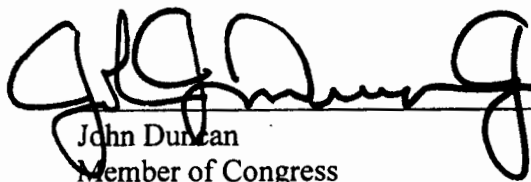
Tom Latham
Member of Congress



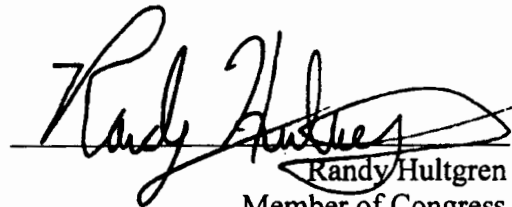
Mo Brooks
Member of Congress



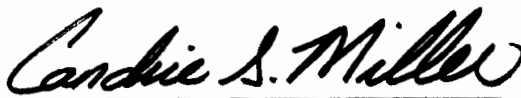
Mike McIntyre
Member of Congress



John Duncan
Member of Congress



Randy Hultgren
Member of Congress



Candice Miller
Member of Congress



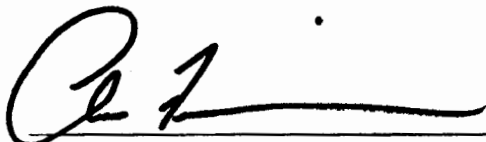
Lynn Jenkins
Member of Congress



Francisco "Quico" Canseco
Member of Congress



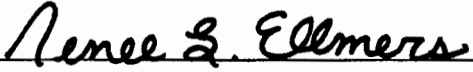
Todd Akin
Member of Congress



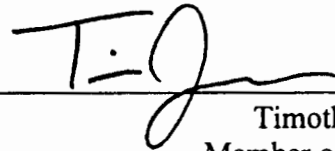
Charles Fleischmann
Member of Congress



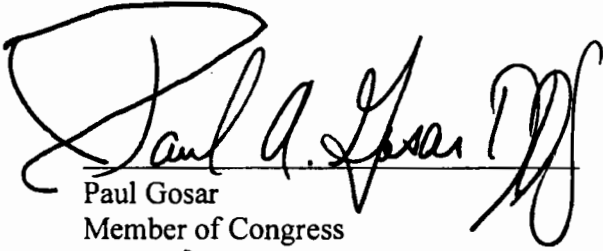
Bill Flores
Member of Congress



Renee Ellmers
Member of Congress



Timothy Johnson
Member of Congress



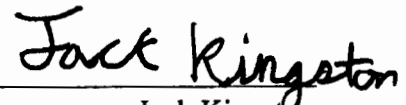
Paul Gosar
Member of Congress



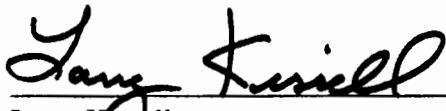
Austin Scott
Member of Congress



Jim Costa
Member of Congress



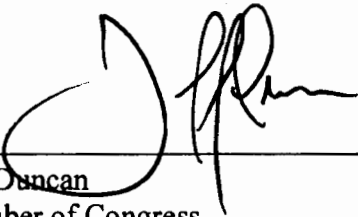
Jack Kingston
Member of Congress



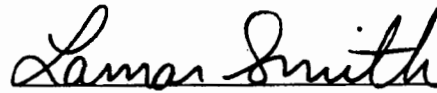
Larry Kissell
Member of Congress



Glenn Thompson
Member of Congress



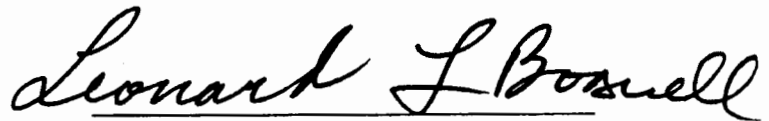
Jeff Duncan
Member of Congress



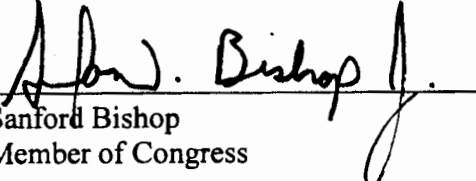
Lamar Smith
Member of Congress

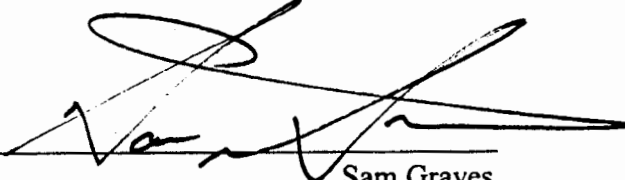


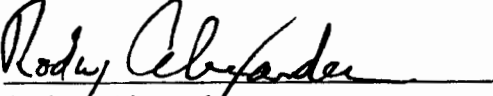
Richard Hanna
Member of Congress



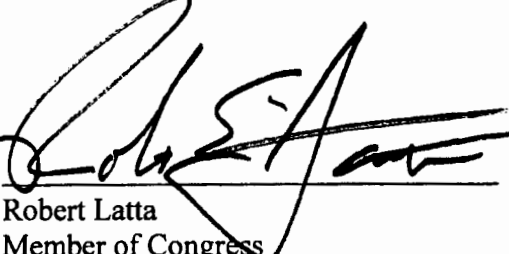
Leonard Boswell
Member of Congress

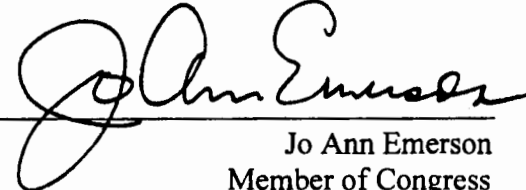

Sanford Bishop
Member of Congress

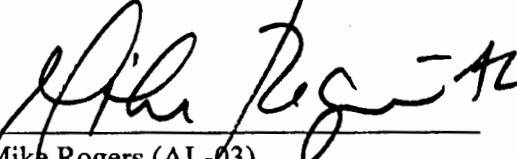

Sam Graves
Member of Congress


Rodney Alexander
Member of Congress

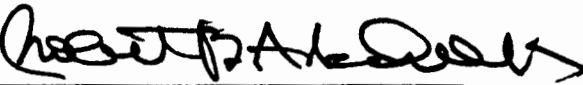

Pete Olson
Member of Congress

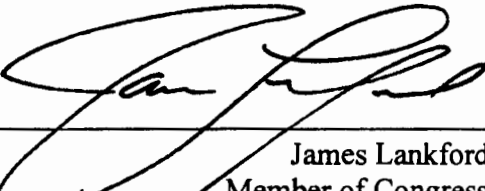

Robert Latta
Member of Congress



Jo Ann Emerson
Member of Congress



Mike Rogers (AL-03)
Member of Congress

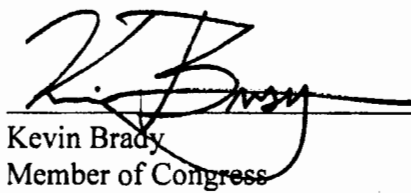

Jo Bonner
Member of Congress


Robert Aden Holt
Member of Congress

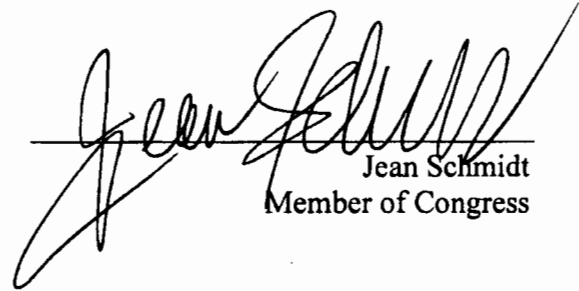

James Lankford
Member of Congress


Alan Nunnelee
Member of Congress

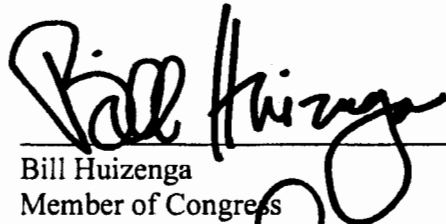

Mac Thornberry
Member of Congress



Kevin Brady
Member of Congress



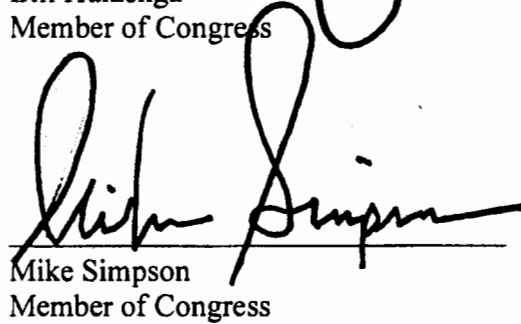
Jean Schmidt
Member of Congress



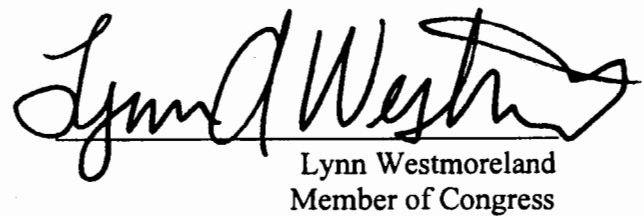
Bill Huizenga
Member of Congress



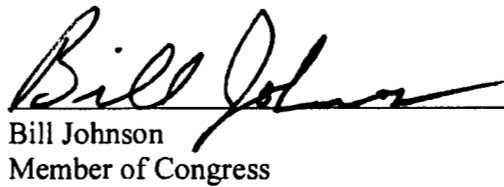
Marlin Stutzman
Member of Congress




Mike Simpson
Member of Congress



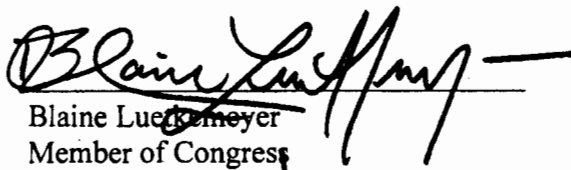
Lynn Westmoreland
Member of Congress



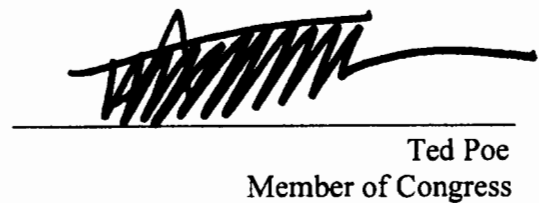
Bill Johnson
Member of Congress



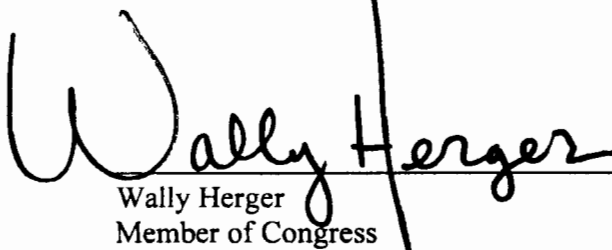
Reid Ribble
Member of Congress



Blaine Luetkemeyer
Member of Congress



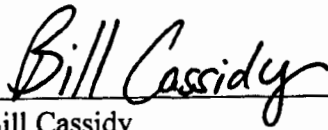
Ted Poe
Member of Congress



Wally Herger
Member of Congress



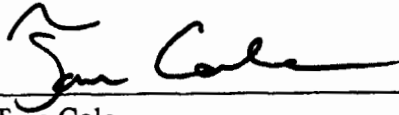
Michele Bachmann
Member of Congress



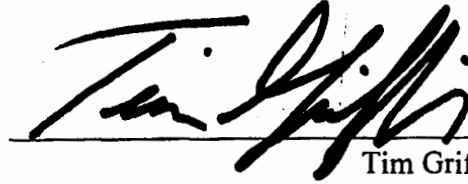
Bill Cassidy
Member of Congress



Billy Long
Member of Congress



Tom Cole
Member of Congress



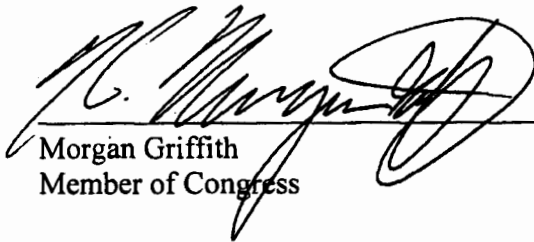
Tim Griffin
Member of Congress



Tim Huelskamp
Member of Congress



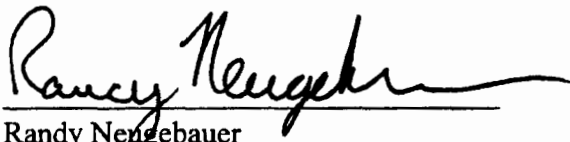
Kristi Noem
Member of Congress



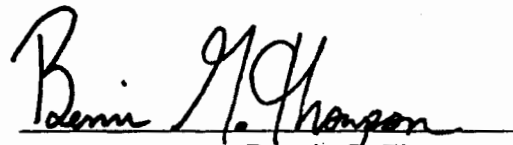
Morgan Griffith
Member of Congress



Mike Ross
Member of Congress



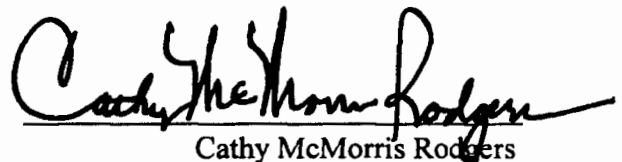
Randy Neugebauer
Member of Congress



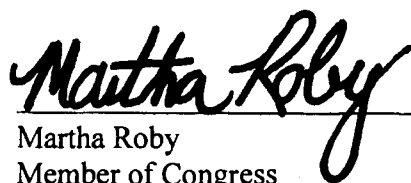
Bennie G. Thompson
Member of Congress



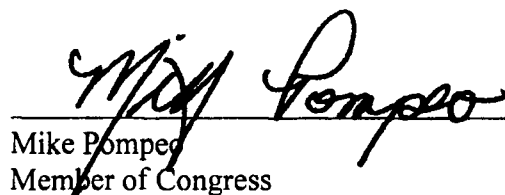
Jeff Denham
Member of Congress



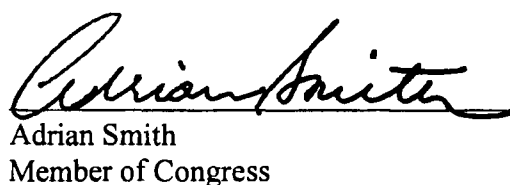
Cathy McMorris Rodgers
Member of Congress

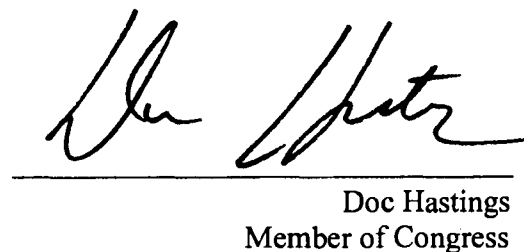

Martha Roby
Member of Congress

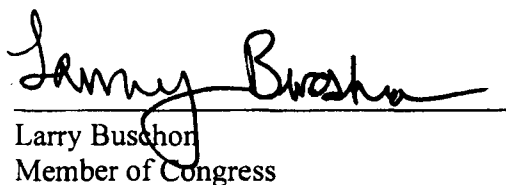

Todd Rokita
Member of Congress


Mike Pompeo
Member of Congress

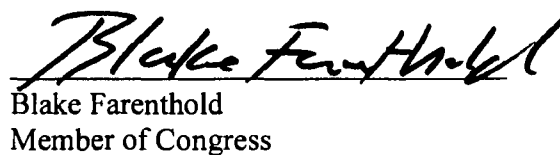

Phil Gingrey
Member of Congress

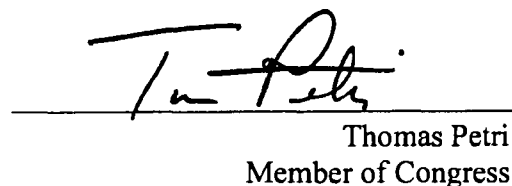

Adrian Smith
Member of Congress

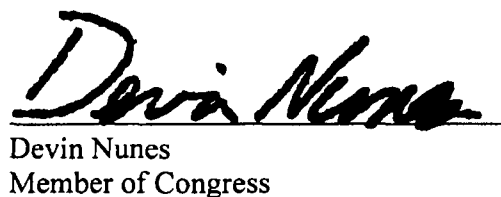

Doc Hastings
Member of Congress


Larry Busch
Member of Congress

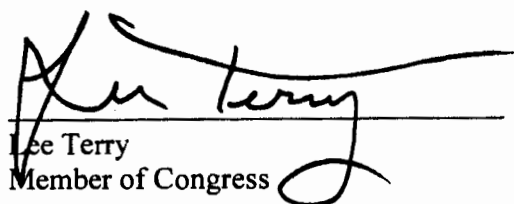

Scott Garrett
Member of Congress


Blake Farenthold
Member of Congress

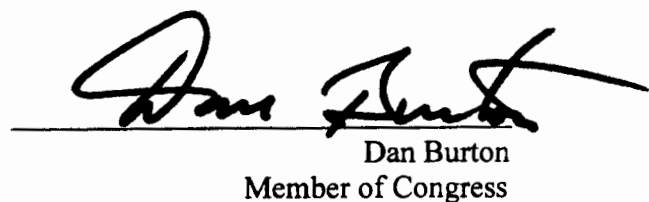

Thomas Petri
Member of Congress


Devin Nunes
Member of Congress

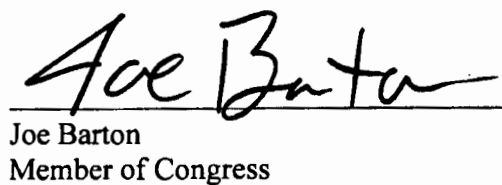

Howard Coble
Member of Congress



Lee Terry
Member of Congress



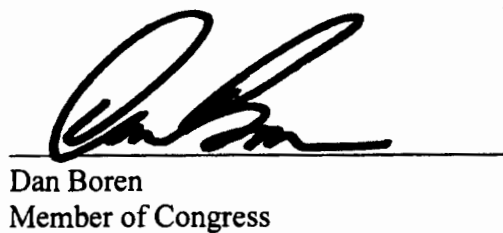
Dan Burton
Member of Congress



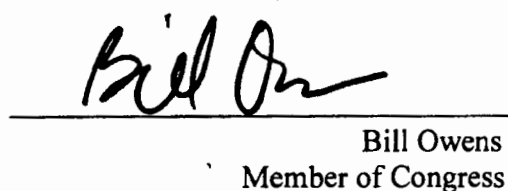
Joe Barton
Member of Congress



Randy Forbes
Member of Congress




Dan Boren
Member of Congress



Bill Owens
Member of Congress



Ann Marie Buerkle
Member of Congress



Charles Boustany
Member of Congress



Steve Southerland
Member of Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OCT 12 2011

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

The Honorable Louie Gohmert
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Gohmert:

Thank you for your letter of July 27, 2011, to the U.S. Environmental Protection Agency regarding the Spill Prevention, Control and Countermeasure (SPCC) rule. In your letter, you cited concerns with the implementation timeline for the SPCC rule for farmers and indicated that farmers need additional time to comply with the rule revisions. I understand your concerns and I appreciate the opportunity to share important information about assistance for the agricultural community.

By way of background, the SPCC rule has been in effect since 1974. The EPA revised the SPCC rule in 2002 and further tailored, streamlined and simplified the SPCC requirements in 2006, 2008 and 2009. During this time, the EPA extended the SPCC compliance date seven times to provide additional time for facility owner/operators to understand the amendments and to revise their Plans to be in compliance with the rule. The amendments applicable to farms, among other facilities, provided an exemption for pesticide application equipment and related mix containers, and clarification that farm nurse tanks are considered mobile refuelers subject to general secondary containment like airport and other mobile refuelers. In addition, the agency modified the definition of facility in the SPCC regulations, such that adjacent or non-adjacent parcels, either leased or owned by a person, including farmers, may be considered separate facilities for SPCC purposes. This is relevant because containers on separate parcels (that the farmer identifies as separate facilities based on how they are operated) do not need to be added together in determining whether they are subject to the SPCC requirements. Thus, if a farmer stores 1,320 US gallons of oil or less in aboveground containers or 42,000 US gallons or less in completely buried containers on separate parcels, they would not be subject to the SPCC requirements. (In determining which containers to consider in calculating the quantity of oil stored, the farmer only needs to count containers of oil that have a storage capacity of 55 US gallons and above.)

Your letter expresses concern about a lack of Professional Engineers (PE) available to certify SPCC Plans. However, most farmers do not need a PE to comply with the SPCC requirements. When the SPCC rule was originally promulgated in 1973, it required that every SPCC Plan be PE certified. However, the EPA amended the SPCC rule in 2006, and again in 2008, to create options to allow qualified facilities (i.e. those with aboveground oil storage capacities of 10,000 gallons or less and clean spill histories) to self-certify their Plans (no PE required) and, in some cases, complete a template that serves as the SPCC Plan for the facility. The SPCC rule requires that the owner or operator of the facility (in this case, a farm) prepare and implement an SPCC Plan. The Plan must be maintained at the location of the farm that is normally attended at least four hours per day. The EPA updated the Frequent Questions on the SPCC Agriculture webpage to include this clarification.

Additionally, during development of the SPCC amendments EPA and the U.S. Department of Agriculture (USDA) gathered information that indicated that approximately 95 percent of farms covered by the SPCC requirements are likely to qualify to self-certify their Plan—that is, no PE certification. Farmers that require the use of a PE and have difficulty finding one before the compliance date may contact the EPA Regional Administrator for the region in which they are located and request a time extension to amend and prepare an SPCC Plan.

EPA understands the issues raised by the farm community and is currently evaluating the best approach to resolve the identified issues. We are working hard to explore viable options for addressing the concerns you have raised. At a minimum, as noted above, those farmers who cannot meet the November 10, 2011, compliance date may request an extension as provided for specifically under 40 CFR 112.3 (f), which states:

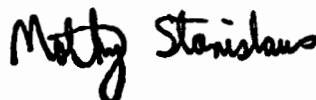
“ Extension of time: The Regional Administrator may authorize an extension of time for the preparation and full implementation of a Plan, or any amendment of a Plan thereto, beyond the time permitted for the preparation, implementation, or amendment of a Plan under this part, when he finds that the owner or operator of a facility subject to the section, cannot fully comply with the requirements as a result of either nonavailability of qualified personnel, or delays in construction or equipment delivery beyond the control and without the fault of such owner or operator or his agents or employees....”

Among the options we are exploring is an appropriate and expeditious process by which such an extension could be of value in addressing the legitimate concerns raised on behalf of agricultural producers.

The Frequent Questions on the EPA's SPCC for Agriculture webpage reflect this information to ensure that farmers are aware that an extension is possible and to describe the process to request such an extension. The address for that website is http://www.epa.gov/emergencies/content/spcc/spcc_ag.htm. We will continue to explore opportunities that would trigger approval of such exemption requests and will investigate mechanisms to help farmers request an extension.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Raquel Snyder, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-9586. We also welcome your suggestions for additional outreach and compliance assistance approaches.

Sincerely,

A handwritten signature in black ink that reads "Mathy Stanislaus". The signature is written in a cursive, slightly slanted style.

Mathy Stanislaus
Assistant Administrator

AL-11-001-0182

Congress of the United States
Washington, DC 20515

June 13, 2011

The Honorable Lisa P. Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington D.C., 20460

Dear Administrator Jackson:

For almost two decades, the EPA has required permit applicants to conduct whole effluent toxicity (WET) tests and has required that permits issued in accordance with the National Pollutant Discharge Elimination System (NPDES) comply with Title 40 Code of Federal Regulations Part 122.44(d) with respect to WET. There has been no change in this regulation. However, EPA Region 6 has recently made significant changes in its requirements with respect to how the WET program is implemented pursuant to this regulation. The changes are a requirement to include a sublethal WET permit limit based on the results of sublethal WET tests and a requirement to do studies to identify the cause of failures and corrective programs when only sublethal effects are present.

While we understand, and share, EPA's goal of protecting our waterways from instream toxicity caused by pollutant discharges, we are concerned that the costs and regulatory burden of implementing EPA's policy with regard to sublethal WET test failures is not justified given the apparent lack of environmental benefits based on the following:

- Implementing this policy could cost Texas communities in excess of \$20 million per year.
- EPA's own studies indicate that there is no demonstrated correlation between sublethal WET testing in the laboratory and actual instream impacts.
- Toxicity investigations attempting to identify the causes of test failures when only sublethal effects are present can cost hundreds of thousands to millions of dollars, and to the limited extent that such studies have been attempted; they have typically been unsuccessful in identifying, and eliminating the causes of sublethal WET test failures.
- Sublethal WET permit limits subject a permit applicant to potential enforcement by state agencies, EPA and to third-party citizen suit liability for test failures that may simply be the result of the statistical error rate of the test.

Given that the regulatory burden imposed in meeting a sublethal WET limit can be substantial, we urge you to revisit this EPA policy and work with representatives of the regulated community and the Texas Commission on Environmental Quality to refine the policy in a manner that meets the requirements of the federal Clean Water Act but provides more flexibility to the State and takes into consideration the environmental significance and the technical challenges posed by sublethal WET permit limits.

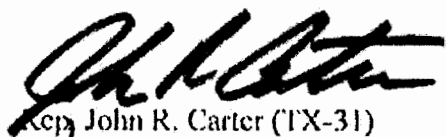
Possible approaches include the following:

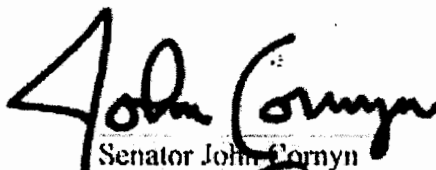
- Suspend the imposition of sublethal WET limits until additional studies are conducted that clearly demonstrate a correlation between sublethal test results and instream sublethal toxicity
- Only impose a sublethal WET limit after a permit applicant has conducted a successful study to identify the cause of, and corrective measures to eliminate, test failures.

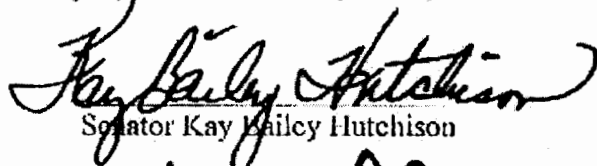
It is our understanding that TCEQ is supportive of alternatives such as these. In addition, there may be other approaches that reflect the unique challenges of sublethal WET testing while providing adequate protection against instream sublethal toxicity.

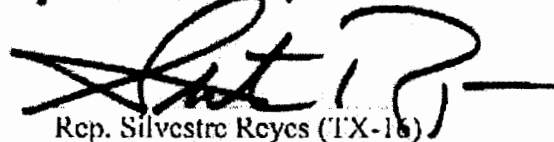
We see this not as a request to lessen the regulatory commitment to clean water, but rather an opportunity to refocus our public entities' limited resources in a manner that will most effectively protect water quality. In this challenging economic time of budget cuts and identification of cost-saving opportunities, we seek your help in ensuring that tax-payer and rate-payer funded scientific investigations and capital investments go to measures that clearly result in water quality protection and enhancement.

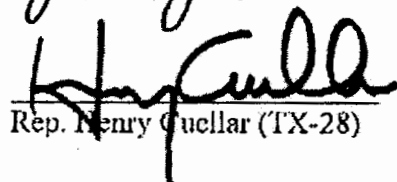
Thank you for your attention to this matter.


Rep. John R. Carter (TX-31)



Senator John Cornyn



Senator Kay Bailey Hutchison

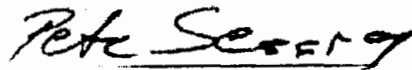

Rep. Silvestre Reyes (TX-16)


Rep. Henry Cuellar (TX-28)


Rep. Mike Conaway (TX-11)



Rep. Louie Gohmert (TX-01)


Rep. Lamar Smith (TX-21)


Rep. Pete Sessions (TX-32)


Rep. Sam Johnson (TX-03)

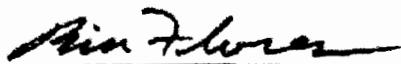

Rep. Randy Neugebauer (TX-19)


Rep. Ted Poe (TX-02)

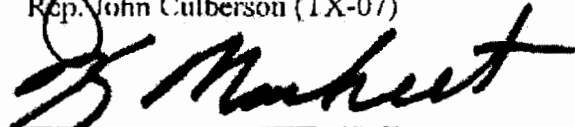

Rep. Michael T. McCaul (TX-10)



Rep. Kay Granger (TX-12)

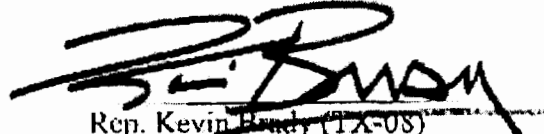

Rep. Blake Farenthold (TX-27)


Rep. Bill Flores (TX-17)



Rep. John Culberson (TX-07)

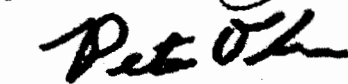

Rep. Kenny Marchant (TX-24)

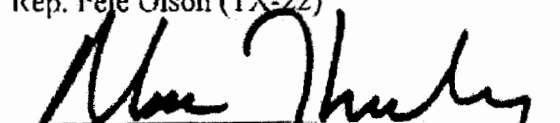

Rep. Ralph M. Hall (TX-04)

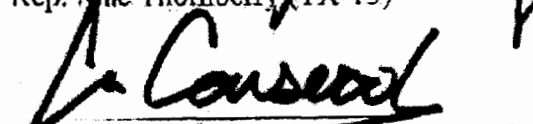

Rep. Kevin Brady (TX-08)


Rep. Joe Barton (TX-06)


Rep. Jeb Hensarling (TX-05)


Rep. Pete Olson (TX-22)


Rep. Mac Thornberry (TX-13)


Rep. Francisco "Quico" Canseco (TX-23)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS TX 75202-2733

JUL 13 2011

The Honorable Louie Gohmert
House of Representatives
Washington, D.C. 20515

Dear Congressman Gohmert:

Thank you for your letter dated May 6, 2011, to the U.S. Environmental Protection Agency (EPA) Administrator Lisa P. Jackson regarding sublethal whole effluent toxicity (WET) limits and requirements in wastewater permits issued under the National Pollutant Discharge Elimination System (NPDES) program of the federal Clean Water Act (CWA). Your letter was forwarded to me for response because Texas is within the jurisdiction of Region 6.

We appreciate your interest in this issue and we welcome the opportunity to address the concerns you have raised. For more than six years, the EPA has been meeting with, and providing training to, representatives of the Texas Commission on Environmental Quality (TCEQ), Texas municipalities, industries and environmental groups on the issue of WET permit limits based on chronic sublethal toxicity effects to aquatic organisms. Unfortunately, the TCEQ had not satisfactorily implemented this portion of the CWA, and the result had been excess pollution into Texas waterways.

Your letter suggests that implementing sublethal WET requirements could cost Texas communities in excess of \$20 million per year. The EPA cannot verify the validity of the cost estimate, but we can share with you that across the nation, over 40 states and one territory have successfully incorporated sublethal WET limits into their programs, including states with large industrial economies, including California, Florida, and North Carolina. Through our experience, we have found that typical implementation costs are substantially lower than the figure in your letter suggests.

Your letter indicates that you have "significant concerns that the regulatory burden imposed by sublethal WET limits based on sublethal test results will do little more than expose permittees to significant expenses and liability without any related enhancement to water quality protection." The EPA acknowledges your concern about the "regulatory burden" of sublethal WET limits, but notes that such limits are mandated by the CWA and the EPA's implementing regulations in order to meet Texas water quality standards. The CWA section 301(b)(1)(C) requires that permits include "any more stringent limitation... necessary to meet water quality standards." *See also* 40 C.F.R. 122.44(d)(1) (same): Texas water quality standards, in turn, contain narrative criteria that specifically require protection against sublethal toxicity.⁷ Accordingly, where a discharger has the reasonable potential to cause or contribute to

⁷ The following information is from the currently applicable Texas water quality standards. The Texas water quality standards provide protection against chronic total toxicity, which is defined in the standards to include both lethal and sublethal effects. Specifically, the standards provide that "[c]hronic total toxicity, as determined from biomonitoring of effluent samples at appropriate dilutions, must be sufficiently controlled to preclude chronic toxicity in all water in the state with an existing or designated aquatic life use" 30 Texas Administrative Code (TAC) 307.6(e)(1) (2010). *See also* TAC 307.6(b)(2) (2000) ("Water in the state with designated or existing aquatic life uses shall not be chronically toxic to aquatic life..."). The standards specifically define chronic toxicity as: "sub-lethal effects, such as growth impairment and reduced reproductive success, but it may also produce lethality." 30 TAC 307.3(a)(11) (2010).

an instream excursion above this narrative criterion, permits must include limits as stringent as necessary to protect against sublethal toxicity, as required by state standards.

Second, your letter asserts that "EPA's own studies indicate that there is no demonstrated correlation between sublethal WET testing in the laboratory and actual instream impacts." This argument – that there is no reliable correlation between sublethal WET testing and instream toxicity – has been specifically addressed and rejected by the D.C. Circuit Court of Appeals. See *Edison Electric Inst. v. EPA*, 391 F.3d 1267 (D.C. Cir. 2004). In that case, industry petitioners had made similar arguments regarding the lack of correlation between laboratory toxicity and instream impacts, particularly at lower levels of toxicity, but the D.C. Circuit Court found that the EPA had successfully demonstrated such correlation with regard to chronic toxicity. Specifically, the *Edison Electric Inst.* court upheld the WET test methods in full, holding that "[b]efore implementing a test method, the EPA must establish that the measured characteristic bears a rational relationship to real-world conditions; the available studies reasonably support such a conclusion with regard to chronic toxicity." *Edison Electric Inst.* at 1274. We are confident in the scientific basis of improving water quality through implementing effluent toxicity testing and limits.

Third, your letter indicates that "[t]oxicity investigations attempting to identify the causes of test failures when only sublethal effects are present are costly and have typically been unsuccessful in identifying and eliminating the causes of sublethal WET test failures." The EPA disagrees with this statement and is aware of multiple successful sublethal-only toxicity studies conducted in Region 6 within the last two years. Those studies, completed by laboratories in Region 6 for Texas permittees, successfully identified the sources of sublethal toxicity. Many of the EPA WET methods are being used by industrial and municipal permittees nationally to successfully identify and eliminate the causes of chronic sublethal WET test failures.² Many states have been effectively implementing sublethal toxicity study requirements and limits, and reducing the toxic effects of undifferentiated waste streams on receiving waters. The low – and declining – rate of noncompliance with those toxicity limits indicates that the cause of lethal and sublethal toxicity can in fact be identified and controlled. This program has developed a national track record for identifying and then reducing the toxicity of discharges into the waters of the U.S.

Finally, your letter indicates that "[s]ublethal WET permit limits subject a permittee to potential enforcement action for test failures that may simply be the result of the statistical error rate of the test." The EPA respectfully disagrees that sublethal WET test failures would simply be the result of statistical error. As discussed above, the D.C. Circuit Court specifically upheld the EPA's WET test methods for sublethal toxicity, finding that the EPA had successfully demonstrated the correlation between laboratory toxicity and instream impacts. See *Edison Electric Institute, et al, v. EPA*, 391 F. 3d 1267 (D.C. Cir. 2004). In supporting this conclusion, the court pointed to the EPA's *Technical Support Document for Water Quality Based Toxics Control* (March 1991), which had found that the likelihood that the data may be explained by randomness, rather than actual correlation, to be only 0.1 percent. In other words, there is a strong likelihood that data indicating laboratory toxicity is correlated to instream impacts and cannot be explained away by statistical error. Furthermore, the EPA does not recommend initial response to a single exceedance of a WET limit, causing no known harm, be a formal enforcement action with a civil penalty. See *National Policy Regarding Whole Effluent Toxicity Enforcement*, Memorandum from Robert Van Heuvelen (Director, Office of Regulatory Enforcement, EPA) and Michael Cook (Office of Wastewater Management, EPA) (August 14, 1995). In addition, the U.S. Supreme Court has found that citizens cannot bring suit against permittees on the basis of a single past violation of a permit limit, where such violation is not part of continuous or intermittent violations reasonably likely to occur in the future. See *Gwaltney*

² *Toxicity Identification Evaluation: Characterization of Chronically Toxic Effluents, Phase I, Marine Toxicity Identification (TIE) Guidance Document, Phase I, and Methods for Aquatic Toxicity Identification Evaluations: Phase I Toxicity Characterization Procedures, Second Edition*

of *Smithfield v. Chesapeake Bay Foundation*, 484 U.S. 49 (1987). Any violation of a WET limit is of concern and should receive immediate, professional review. However, a single violation does not necessarily require that a formal enforcement action be taken. The enforcement authority has discretion on selecting an appropriate response.

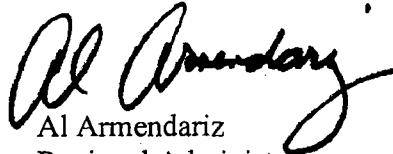
As an alternative to including sublethal WET limits in permits, you suggest suspending the imposition of sublethal WET limits until additional studies are conducted that demonstrate a correlation between sublethal test results and instream sublethal toxicity. These studies already exist, and, as discussed above, the D.C. Circuit Court in the *Edison Electric* case has found that the EPA has already demonstrated this correlation. One such study includes Mr. James D. Horne's paper titled *Sublethal Toxicity Identification – Texas Case Studies* (Presented at the Society of Environmental Toxicology and Chemistry [SETAC] 31st Annual Meeting in North America 2010, abstract available at Horne, James D. *Sublethal Toxicity Identification – Texas Case Studies*[Abst RP104], Abstract book SETAC North America 31st Annual Meeting, held at the Oregon Convention Center, Portland, Oregon, USA., 07 - 11 November 2010, page 404).

Another alternative you suggest is to impose a sublethal WET limit only after a permittee has conducted a successful Toxicity Reduction Evaluation. However, this would not be consistent with the regulation at 40 CFR 122.44(d)(1)(v), which requires that where a discharge has the reasonable potential to cause or contribute to an instream excursion above a narrative criterion within the applicable state water quality standards, "the permit must contain *effluent limits* for whole effluent toxicity" (emphasis added).

Clean water is the most essential component of healthy Texas ecosystems, wildlife, and the state's economy. The EPA is committed to working constructively with the TCEQ and permit holders to implement all CWA requirements as quickly as possible, and when necessary, to provide technical assistance or funding through federal programs. However, neither inaction nor additional delay – on top of the six years already committed by the agency to resolve WET issues with the state – are viable solutions. The EPA's approach has been successfully implemented by states all over the country, is grounded in sound science, and has been upheld by the federal courts. Fishermen, hunters, and all Texans deserve the agency's and the state's focused attention on bringing this matter to closure.

If you have any further questions, please contact me at (214) 665-2100, or your staff may contact Ms. Cynthia Fanning at (214) 665-2142.

Sincerely yours,


Al Armendariz
Regional Administrator

Identical letters sent to:
Please see page 4

The Honorable John Cornyn
United States Senate

The Honorable John R. Carter
United States House of Representatives

The Honorable Silvestre Reyes
United States House of Representatives

The Honorable Henry Cuellar
United States House of Representatives

The Honorable Mike Conaway
United States House of Representatives

The Honorable Pete Olson
United States House of Representatives

The Honorable John Culberson
United States House of Representatives

The Honorable Lamar Smith
United States House of Representatives

The Honorable Kenny Marchant
United States House of Representatives

The Honorable Pete Sessions
United States House of Representatives

The Honorable Ralph M. Hall
United States House of Representatives

The Honorable Kevin Brady
United States House of Representatives

The Honorable Kay Bailey Hutchison
United States Senate

The Honorable Joe Barton
United States House of Representatives

The Honorable Ted Poe
United States House of Representatives

The Honorable Jeb Hensarling
United States House of Representatives

The Honorable Michael T. McCaul
United States House of Representatives

The Honorable Randy Neugebauer
United States House of Representatives

The Honorable Kay Granger
United States House of Representatives

The Honorable Mac Thornberry
United States House of Representatives

The Honorable Blake Farenthold
United States House of Representatives

The Honorable Fransisco "Quico" Canseco
United States House of Representatives

The Honorable Bill Flores
United States House of Representatives

The Honorable Sam Johnson
United States House of Representatives

AL-09-000-8420



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN 30 2009

OFFICE OF
PREVENTION, PESTICIDES AND
TOXIC SUBSTANCES

The Honorable Louie Gohmert
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Gohmert:

In June, the U.S. Environmental Protection Agency (EPA) will announce the winners of the 2009 Presidential Green Chemistry Challenge Awards. We are pleased to inform you that one of your constituents, Cook Composites & Polymers, located in Marshall, Texas, will receive an award. The Presidential Green Chemistry Challenge Program is a voluntary partnership between EPA and the chemical industry and broader scientific community. The annual awards recognize outstanding innovations in green chemistry that are scientifically, environmentally, and economically beneficial. The results of this national competition are impressive; since 1996, the 72 award-winning technologies have eliminated the use and generation of hundreds of millions of pounds of toxic substances, while saving energy and lowering costs. Details are available on the program's website at www.epa.gov/greenchemistry.

This year, Cook Composites & Polymers has won the Designing Greener Chemicals Award, in conjunction with Procter & Gamble Company, for novel oil-based (alkyd) paints that use biobased oils. We and the attendees from Cook Composites & Polymers would be honored if you or your staff could attend the awards ceremony. I will present the 2009 Presidential Green Chemistry Challenge Awards to Cook Composites & Polymers and five other recipients at our ceremony at the Carnegie Institution for Sciences, 1530 P St., NW, Washington, D.C. on Monday, June 22, 2009, at 5:30 p.m. The ceremony will last approximately one hour. I expect to be joined by representatives of the White House, the American Chemical Society, and other Federal agencies.

If I can be of further assistance, please let me know, or your staff may contact Christina Moody in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-0260.

Sincerely,

A handwritten signature in black ink, appearing to read "James J. Jones".

James J. Jones
Acting Assistant Administrator

AL-12-000-7766

Congress of the United States
Washington, DC 20515

April 27, 2012

The Honorable Lisa P. Jackson
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Administrator Jackson:

We are writing today in regard to the comments Region VI Administrator Al Armendariz made regarding his philosophy of enforcement. Specifically, Mr. Armendariz said:

It was kind of like how the Romans used to, you know, conquer villages in the Mediterranean. They'd go into a little Turkish town somewhere, they'd find the first five guys they saw and they'd crucify them. Then, you know, that town was really easy to manage for the next few years.

And so you make examples out of people who are in this case not complying with the law. Find people who are not complying with the law and you hit them as hard as you can and make examples out of them. It's a deterrent thing.

I hope that you will agree with us that these comments are beyond the pale. The EPA is not a conquering army, it does not wield dictatorial power, and it certainly was not granted the authority to crucify anyone – metaphorically or not.

We find it hard to believe that any of those facts need clarification, but these comments suggest otherwise.

Mr. Armendariz's statements betray a vindictive culture that is driven by ideology more than it is by science. It is no secret in Texas, the heart of America's oil and gas industry, that the EPA has become a petty, arbitrary, and demagogic organization. It is a sad fall for an institution charged with safeguarding the public.

As director of Region VI, Mr. Armendariz has shown little restraint on putting his "crucifixion strategy" into action. Time and time again, Mr. Armendariz has rushed to publicly proclaim what horrible sin a company has committed. With great fanfare he would "crucify" them in public and hoist them high, for all to see. Only later, when the crowds had left, and only the scientists and jurists remained, did he admit that perhaps he had been a bit too hasty.

There is no more striking example of this than the charges he leveled against Range Resources in 2010 of contaminating two family wells in Parker County, TX. When the *Imminent and Substantial Endangerment Order* was issued, it said the "Agency orders Range Natural Gas Company to stop the contamination of Methane and Other Contaminants into drinking water near multiple residences." Mr. Armendariz went on to say, "We believe these were dangerous situations, it was very alarming. We believe we had to act, and act quickly to preserve the well-being of the families that live in these homes."

He was flat wrong. There was no contamination and his office failed to conduct appropriate or adequate science to support his claims. Eighteen months later, his office quietly withdrew its emergency order.

Mr. Armendariz has not just been content to make examples of oil and gas companies though; he has trained his deterrence efforts on state and local government, as well.

The State of Texas has long had a successful flexible permitting program that the EPA first approved 18 years ago. Yet, upon stepping into office, Mr. Armendariz decided that the state of Texas needed to be given notice, so he invalidated the program and sought to have the EPA act as the permit granter for the state. Again, his efforts were in vain. The Courts ruled decisively against his actions, rebuking him by saying:

...the EPA disapproved the PCP Standard Permit—submitted four and a half years earlier—based on its purported nonconformity with three extra-statutory standards that the EPA created out of whole cloth. Moreover, the EPA did this in the context of a cooperative federalism regime that affords sweeping discretion to the states to develop implementation plans and assigns to the EPA the narrow task of ensuring that a state plan meets the minimum requirements of the Act.

The Court then ordered the EPA to approve the Texas regulations.

These are two examples out of dozens where Mr. Armendariz has allowed his personal views to trump the laws he is charged with carrying out and the science that is supposed to guide him. It is clear that his deep seated biases are hindering his competent management of the office he holds.

As public servants, the power we exercise is not our own, it is on loan to us from the people we serve, the American public. When we use that power in ways that cannot be justified – in Mr. Armendariz's case either through science or under the law – we sow distrust and anger among those we serve.

It is no wonder that the opinions of government is at an all time low – petty bureaucrats like Mr. Armendariz brandish their authority like a weapon, taking joy in intimidating the individuals and companies they oversee.

The men and women who work for oil and gas companies are our constituents, our friends, and our neighbors. They are not criminals in need of deterrence; they are Americans who care deeply about the communities they live and work in.

Not only do energy companies power America, but they are also building our nascent economic recovery. The industry that Mr. Armendariz seeks to deter employs millions of Americans in good, high paying jobs. In some of the hardest hit parts of the country, the energy industry is putting Americans back to work.

Where violations of the law take place and punishment is appropriate, there should be punishment. But, no American should be subject to the spiteful whims of an Administrator who is so blinded by his ideology that had cannot discern the difference between enforcement and crucifixion.

Given the relationship Mr. Armendariz has cultivated with the citizens of Texas, we believe that the EPA and Region VI would be best served if there was a new, less divisive Administrator installed in his place. Mr. Armendariz's conduct and statements have so contaminated the well that his continued service in this office seems likely to be met with increasing hostility and resistance from the very people he is expected to work with and for.

office seems likely to be met with increasing hostility and resistance from the very people he is expected to work with and for.

We are deeply disappointed in not only the statements of Mr. Armendariz, but also the abrasive, hostile posture that his office has struck during his tenure. It is our recommendation that Mr. Armendariz be relieved of his position, effective immediately.

Sincerely,

K. Mitt Long

Pete Seaton

Joe Babin

Blake Furutaka

AMM

Allen Peen

Lamar Smith

Will M'K-1

Pete Olsen

Barney

John Carter TX31

Sandy Johnson

Kay Arango

Mar 7/14

Bill Floss
TX-17

Robert TX-1

Steven Pearson NM-2

Robert Frank AZ-2

Gene King TX-5

Or Course TX-23

Kerry Martin

John Culberson

Fritz Bury

John Ansaury

Ralph M. Hall

John Long

Orin Paul

MICHAEL C. BURGESS, M.D.
26TH DISTRICT, TEXAS

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AL-08-000-8144

Congress of the United States
House of Representatives
Washington, DC 20515-4326

COMMITTEES:
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INFRASTRUCTURE**
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HOUSE REPUBLICAN
POLICY COMMITTEE

June 11, 2008


The Honorable Stephen Johnson
Administrator
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Johnson:

Please accept the attached letter signed by 24 Members of the United States House of Representatives representing the people of the state of Texas.

Please include this letter in the appropriate administrative record.

Sincerely,


Michael C. Burgess, M.D.
Member of Congress

Congress of the United States
Washington, DC 20515

June 11, 2008

The Honorable Stephen Johnson
Administrator
U.S. Environmental Protection Agency
Washington, D.C. 20460

Dear Administrator Johnson:

We are writing to comment on the State of Texas' petition to reduce the volume of the renewable fuel standard (RFS) mandate required to be used in motor vehicles and other engines. Governor Perry's request to reduce the mandate, citing adverse economic impact in Texas, is consistent with Section 211 (o) of the Clean Air Act as amended by the Energy Independence and Security Act of 2007 (EISA).

Under the EISA, the RFS was expanded to require the blending of 36 billion gallons of renewable fuel in the nation's fuel supply by 2022. While we strongly support alternative sources of energy to diversify America's energy supplies, we remain deeply concerned with recent economic studies and news reports that highlight the unintended consequences that certain biofuels may have on global food prices, our environment, and the economy of our state.

In the span of a year, working families have had to tighten their budgets as the price of a dozen eggs rose by 35%, a gallon of milk by 23%, and a loaf of bread by 16%. Livestock producers and family ranches have endured increasing prices for a bushel of corn for feed, which can negatively impact segments of the agricultural industry. These increased costs are falling on the economy at the same time that skyrocketing energy prices are taking a toll on our constituent's pocketbooks.

While we recognize there are several factors contributing to rising food and feed prices, we are concerned with any additional potential impacts certain biofuels may have on consumers and our economy as the RFS mandate increases in the years ahead. Our nation must do more to advance alternative energy sources, like cellulosic ethanol and advanced biofuels from non-food feedstocks, that offer real solutions to the "food versus fuel" debate.

As you know, Section 211 (o) of the Clean Air Act enables the EPA to grant a full or partial waiver if implementation of the RFS would severely harm the economy or environment of a state, region, or the entire country.

We respectfully request EPA to conduct a thorough and complete investigation into Governor Perry's request, with consideration of the economic effect that the expansion of the renewable fuels standard may have upon the state of Texas. We also support the development of alternatives like cellulosic and advanced biofuels to meet the RFS requirements that do not contribute to rising food costs or economic harm concerns.

Sincerely,

Jeffrey no for Barton Joe Lee
Kay Granger H. Scott McCall John Culberson

Ron Paul Sam Johnson T. Nease

Pete Sessions Debra D. Ortiz Lamar Smith

[Signature] K. J. [Signature] Eric Lubert

Al Green [Signature] John [Signature]

John [Signature] Mar [Signature] [Signature]

Randy Neugebauer Ralph M. Hall Rubén Hinojosa

Cc:

The Honorable Michael C. Burgess, M.D.
The Honorable Joe Barton
The Honorable Gene Green
The Honorable Kay Granger
The Honorable Michael T. McCaul
The Honorable John Abney Culberson
The Honorable Ron Paul
The Honorable Sam Johnson
The Honorable Kenny Marchant
The Honorable Pete Sessions
The Honorable Soloman P. Ortiz
The Honorable Lamar Smith
The Honorable John Carter
The Honorable Michael K. Conaway
The Honorable Mac Thornberry
The Honorable Louie Gohmert
The Honorable Al Green
The Honorable Charles A. Gonzalez
The Honorable Jeb Hensarling
The Honorable Sheila Jackson-Lee
The Honorable Nick Lampson
The Honorable Randy Neugebauer
The Honorable Ralph M. Hall
The Honorable Ruben Hinojosa



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 11 2008

The Honorable Louie Gohmert
U.S. House of Representatives
Washington, D.C. 20515

OFFICE OF
AIR AND RADIATION

Dear Congressman Gohmert:

Thank you for your letter of June 11, 2008, co-signed by 23 of your colleagues, to Stephen L. Johnson, Administrator of the U.S. Environmental Protection Agency (EPA). Your letter requests that EPA conduct a thorough and complete investigation of the request by Governor Perry to waive a portion of the renewable fuels standard (RFS), with consideration of the economic effects on the State of Texas. Let me assure you that EPA is conducting such a review, utilizing the public notice and comment process required by the Energy Independence and Security Act of 2007 (EISA).

EPA received the Governor's waiver request, related to the current RFS requirements, on April 25, 2008. A copy of the *Federal Register* notice announcing receipt of the waiver request and soliciting public comment is enclosed. This notice calls for comment on any matter that may be relevant to EPA action on the petition, including whether compliance with RFS is causing severe harm to the economy of Texas and to what extent, if any, a waiver approval would change demand for ethanol and affect corn and feed prices. Please be assured that we will take your concerns into consideration in this matter and will place your letter in the docket for the waiver request.

EPA's Office of Air and Radiation is also considering new and revised RFS requirements, as required by EISA. We are working expeditiously on this matter and, as with our development of the first RFS program, a key part of this effort is extensive outreach to stakeholders from industry, state and local governments, and non-governmental organizations. The issues raised in your letter will be discussed and analyzed as part of this rulemaking effort.

Again, thank you for your letter. If you have further questions please contact me or your staff may call Patricia Haman, in EPA's Office of Congressional and Intergovernmental Relations, at 202-564-2806.

Sincerely,

A handwritten signature in black ink, which appears to read "Robert J. Meyer", is written over the typed name.

Robert J. Meyer
Principal Deputy Assistant Administrator

Enclosure

On April 11, 2008, notice was published that the Commonwealth of Massachusetts had petitioned the Regional Administrator, Environmental Protection Agency, to determine that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the state waters of Scituate, Marshfield, Cohasset, and the tidal portions of the North and South Rivers. No comments were received on this petition.

The petition was filed pursuant to Section 312(f)(3) of Public Law 92-500, as amended by Public Laws 95-217 and 100-4, for the purpose of declaring these waters a "No Discharge Area" (NDA).

Section 312(f)(3) states: After the effective date of the initial standards and regulations promulgated under this section, if any State determines that the protection and enhancement of the quality of some or all of the waters within such States require greater environmental protection, such State may completely prohibit the discharge from all vessels of any sewage, whether treated or not, into such waters, except that no such prohibition shall apply until the Administrator determines that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for such water to which such prohibition would apply.

The information submitted to EPA by the Commonwealth of Massachusetts

certifies that there are ten pumpout facilities located within the proposed area. A list of the facilities, with phone numbers, locations, and hours of operation is appended at the end of this determination.

Based on the examination of the petition, its supporting documentation, and information from site visits conducted by EPA New England staff, EPA has determined that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the area covered under this determination.

This determination is made pursuant to Section 312(f)(3) of Public Law 92-500, as amended by Public Laws 95-217 and 100-4.

PUMPOUT FACILITIES WITHIN PROPOSED NO DISCHARGE AREA

Name	Location	Contact info	Hours	Mean low water depth
Cohasset Harbormaster	Cohasset Harbor	(781) 383-0863	15 May-1 Nov	N/A.
		VHF 10, 16	9:00 a.m.-9:00 p.m.	Boat Service.
Cole Parkway Marina	Scituate Harbor	(781) 545-2130	15 May-15 October	6 ft.
		VHF 9	8:00 a.m.-4:00 p.m.	
Harbor Mooring Service	North and South Rivers	(781) 544-3130	15 April-1 November	N/A.
		Cell (617) 281-4365	Service provided on-call	Boat Service.
		VHF 9		
James Landing Marina	Herring River, Scituate	(781) 545-3000	1 May-15 Oct	6 ft.
			8 a.m.-4:30 p.m.	
Waterline Mooring	Scituate Harbor	(781) 545-4154	15 May-15 Oct	N/A.
		VHF 9, 16	8 a.m.-5 p.m.	Boat Service.
			Or by appointment	
Green Harbor Town Pier	Green Harbor, Marshfield	(781) 834-5541	1 April-15 Nov 24/7 Self-Serve 15 May-30 Sept. Attendant Service 8 a.m.-11:30 p.m.	4 ft.
		VHF 9, 16		
Bridgeway Marina	South River, Marshfield	(781) 837-9343	15 June-15 October	6 ft.
		VHF 9, 11	9-5 p.m.	
Erickson's Marina	South River, Marshfield	(781) 837-2687	15 March-15 November	4 ft.
			8 a.m.-5 p.m.	
White's Ferry Marina	South River, Marshfield	(781) 837-9343	15 June-15 October	4 ft.
		VHF 9, 11	9-5 p.m.	
Mary's Boat Livery	North River, Marshfield	(781) 837-2322	15 May-1 Oct	4 ft.
		VHF 9, 16	8 a.m.-4 p.m.	
** Marshfield Yacht Club	South River, Marshfield	TBA	TBA	TBA.
** South River Boat Ramp	South River, Marshfield	TBA	TBA	TBA.

** Pending facilities.

Dated: May 14, 2008.

Robert W. Varney,

Regional Administrator, Region 1.

[FR Doc. E8-11485 Filed 5-21-08; 8:45 a.m.]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2008-0380; FRL-8569-5]

Notice of Receipt of a Request From the State of Texas for a Waiver of a Portion of the Renewable Fuel Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 211(o)(7) of the Clean Air Act (the Act), 42 U.S.C. 7545(o)(7), EPA is issuing a

notice of receipt of a request for a waiver of 50 percent of the renewable fuel standard (RFS) "mandate for the production of ethanol derived from grain." The request has been made by the Governor of the State of Texas. Section 211(o)(7)(A) of the Act allows the Administrator of the EPA to grant the waiver if implementation of the national RFS requirements would severely harm the economy or environment of a state, a region, or the United States, or if EPA determines that there is inadequate domestic supply of renewable fuel. EPA is required by the Act to provide public notice and

opportunity for comment on this request.

DATES: *Comments.* Written comments must be received on or before June 23, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2008-0380, by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

- *E-mail:* a-and-r-docket@epa.gov.

- *Fax:* (202) 566-1741.

- *Mail:* Air and Radiation Docket, Docket ID No. EPA-HQ-OAR-2008-0380, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Please include a total of two copies.

- *Hand Delivery:* EPA Docket Center, Public Reading Room, EPA West Building, Room 3334, 1301 Constitution Avenue, NW., Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-OAR-2008-0380. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of

encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

FOR FURTHER INFORMATION CONTACT:

James W. Caldwell, Office of Transportation and Air Quality, Mailcode: 6406J, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 343-9303; fax number: (202) 343-2802; e-mail address: caldwell.jim@epa.gov.

SUPPLEMENTARY INFORMATION:

(A) How Can I Access the Docket and/or Submit Comments?

EPA has established a public docket for this ICR under Docket ID No. EPA-HQ-OAR-2008-0380, which is available for online viewing at <http://www.regulations.gov>, or in person viewing at the EPA/DC Docket Center Public Reading Room, 1301 Constitution Avenue, NW., Room 3334, Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202-566-1744, and the telephone number for the Air and Radiation Docket is 202-566-1742.

Use <http://www.regulations.gov> to obtain a copy of the waiver request, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified in this document.

(B) What Information Is EPA Particularly Interested In?

On April 25, 2008, the Governor of Texas submitted a request to the Administrator under section 211(o) of the Act for a waiver of 50 percent of the RFS "mandate for the production of ethanol derived from grain." The request includes statements regarding the economic impact of higher corn prices in Texas. This request has been placed in the public docket.

Pursuant to section 211(o)(7) of the Act, EPA specifically solicits comments and information to enable the Administrator to determine if the statutory basis for a waiver of the national RFS requirements has been met and, if so, the extent to which EPA should exercise its discretion to grant a waiver. Section 211(o)(7) of the Act allows the Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, to waive the requirements of the

national RFS at 40 CFR 80.1105, in whole or in part, upon petition by one or more States. A waiver may be granted if the Administrator determines, after public notice and an opportunity for public comment, that implementation of the RFS requirements would severely harm the economy or environment of a state, a region, or the United States; or that there is an inadequate domestic supply of renewable fuel. The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove a State petition for a waiver within 90 days of receiving it. If a waiver is granted, it can last no longer than one year unless it is renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy. The RFS for 2008 was published in the *Federal Register* on February 14, 2008 (73 FR 8665) and was intended to lead to the use of nine (9) billion gallons of renewable fuel in 2008.

EPA requests comment on any matter that might be relevant to EPA's action on the petition, specifically including (but not limited to) information that will enable EPA to:

- (a) Evaluate whether compliance with the RFS is causing severe harm to the economy of the State of Texas;

- (b) evaluate whether the relief requested will remedy the harm;

- (c) determine to what extent, if any, a waiver approval would change demand for ethanol and affect corn or feed prices; and

- (d) determine the date on which a waiver should commence and end if it were granted.

In addition to inviting comments on the above issues, EPA recognizes that it has discretion in deciding whether to grant a waiver, as the statute provides that "[t]he Administrator * * * may waive the requirements of [section 211(o)(2)] in whole or in part" (emphasis supplied) if EPA determines that the severe harm criteria has been met. EPA also recognizes that a waiver would involve reducing the national volume requirements under section 211(o)(2), which would have effects in areas of the country other than Texas, including areas that may be positively impacted by the RFS requirements. Given this, EPA invites comment on all issues relevant to deciding whether and how to exercise its discretion under this provision, including but not limited to the impact of a waiver on other regions or parts of the economy, on the environment, on the goals of the renewable fuel program, on appropriate mechanisms to implement a waiver if a waiver were determined to be

appropriate, and any other matters considered relevant to EPA's exercise of discretion under this provision.

Commenters should include data or specific examples in support of their comments in order to aid the Administrator in determining whether to grant or deny the waiver. Data that shows a quantitative link between the use of corn for ethanol and corn prices, and on the impact of the RFS mandate on the amount of ethanol produced, would be especially helpful.

Dated: May 18, 2008.

Robert J. Meyers,

Principal Deputy Assistant Administrator,
Office of Air and Radiation.

[FR Doc. E8-11486 Filed 5-21-08; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to OMB for Review and Approval, Comments Requested

May 19, 2008.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before June 23, 2008. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of

time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via Internet at Nicholas_A_Fraser@omb.eop.gov or via fax at (202) 395-5167 and to Cathy Williams, Federal Communications Commission, Room 1-C823, 445 12th Street, SW., Washington, DC or via Internet at Cathy.Williams@fcc.gov or PRA@fcc.gov. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page <http://www.reginfo.gov/public/do/PRAMain>; (2) look for the section of the Web page called "Currently Under Review;" (3) click on the downward-pointing arrow in the "Select Agency" box below the "Currently Under Review" heading; (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box; (5) click the "Submit" button to the right of the "Select Agency" box; and (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB control number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Cathy Williams at (202) 418-2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060-0009.

Title: Application for Consent to Assignment of Broadcast Station Construction Permit or License or Transfer of Control of Corporation Holding Broadcast Station Construction Permit or License.

Form Number: FCC Form 316.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions; State, local or Tribal government.

Number of Respondents and Responses: 750 respondents, 750 responses.

Frequency of Response: On occasion reporting requirement.

Obligation To Respond: Required to obtain benefits—Statutory authority for this collection of information is contained in Sections 154(i) and 310(d) of the Communications Act of 1934, as amended.

Estimated Time per Response: 1-4 hours.

Total Annual Burden: 855 hours.

Total Annual Costs: \$425,150.

Confidentiality: No need for confidentiality required.

Privacy Impact Assessment: No impact(s).

Needs and Uses: On March 17, 2005, the Commission released a Second Order on Reconsideration and Further Notice of Proposed Rulemaking, Creation of a Low Power Radio Service, MB Docket No. 99-25 (FCC 05-75). The Further Notice of Proposed Rulemaking ("FNPRM") proposed to permit the assignment or transfer of control of Low Power FM (LPFM) authorizations where there is a change in the governing board of the permittee or licensee or in other situations corresponding to the circumstances described above. This proposed rule was subsequently adopted in a Third Report and Order and Second Further Notice of Proposed Rulemaking, MB Docket No. 99-25 (FCC 07-204) (*Third Report and Order*), released on December 11, 2007.

FCC Form 316 has been revised to encompass the assignment and transfer of control of LPFM authorizations, as proposed in the FNPRM and subsequently adopted in the Third Report and Order, and to reflect the ownership and eligibility restrictions applicable to LPFM permittees and licensees.

Filing of the FCC Form 316 is required when applying for authority for assignment of a broadcast station construction permit or license, or for consent to transfer control of a corporation holding a broadcast station construction permit or license where there is little change in the relative interest or disposition of its interests; where transfer of interest is not a controlling one; there is no substantial change in the beneficial ownership of the corporation; where the assignment is less than a controlling interest in a partnership; where there is an appointment of an entity qualified to succeed to the interest of a deceased or legally incapacitated individual permittee, licensee or controlling stockholder; and, in the case of LPFM stations, where there is a voluntary transfer of a controlling interest in the licensee or permittee entity. In addition, the applicant must notify the Commission when an approved transfer of control of a broadcast station construction permit or license has been consummated.

OMB Control Number: 3060-0031.

Title: Application for Consent to Assignment of Broadcast Station Construction Permit or License; Application for Consent to Transfer Control of Entity Holding Broadcast Station Construction Permit or License; Section 73.3580, Local Public Notice of Filing of Broadcast Applications.